

Dated 21 DECEMBER 2006

**THE MAYOR AND BURGESSES OF
THE LONDON BOROUGH OF SOUTHWARK**

and

EADON ESTATES LIMITED

and

NATIONAL WESTMINSTER BANK PLC

**Agreement pursuant to Section 106 of
The Town And Country Planning Act 1990 and other powers in relation to
50 New Kent Road, Elephant & Castle
London SE1**

Herbert Smith LLP
Exchange House
Primrose Street
London EC2A 2HS

THIS DEED is made the *21* day of *DECEMBER* Two thousand and six

BETWEEN

(1) **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF SOUTHWARK** of the Town Hall Peckham Road London SE5 8UB;

AND

(2) **EADON ESTATES LIMITED** a Company registered in the Isle of Man (IoM Company No. 113486C) whose registered office is 9 Myrtle Street, Douglas, Isle of Man

AND

(3) **NATIONAL WESTMINSTER BANK PLC** a Company registered in England and Wales (Company No. 00929027) whose registered office is 135 Bishopsgate, London EC2M 3UR

WHEREAS:

1. The Developer is the freehold owner of the Site as the same is registered with Title Absolute under the Title Number SGL500495 at H.M. Land Registry.
2. The Developer wishes to construct the Development in accordance with the Planning Permission and the obligations contained herein upon the Site.
3. The obligations contained in this Deed are planning obligations for the purposes of section 106 of the Town and Country Planning Act 1990 (as amended).
4. The Council is the local planning authority by whom the obligations contained in this Deed are enforceable.
5. The Mortgagee has a charge over the Site dated 1st September 2006.
6. Having regard to the provisions of the UDP, the London Plan, the adopted Supplementary Planning guidance entitled "A Development Framework for the Elephant and Castle" adopted by the Council on 19th February 2004 and all other material considerations

affecting the Site the Council considers that in the interests of the proper planning of its area the Development of the Site ought only be permitted subject to the terms hereof and for that purpose the parties are willing to enter into this Deed.

7. The carrying out of the Development provides an opportunity for the Council to facilitate the provision of the Market Square, the Tunnels and the Basement Area, each of which forms a key element of the strategy for the regeneration of Elephant & Castle as envisaged by the Supplementary Planning Guidance referred to in the preceding recital and therefore it is proposed that the Developer and the Council shall, subject to relevant authority (whether at committee level or by officers under delegated powers) and the Developer's board of directors, enter into arrangements outside the scope of this Deed by virtue of which sufficient land interests can be transferred or granted between the Developer and the Council in order to enable such works to be carried out.
8. The regeneration of Elephant & Castle provides an opportunity to introduce a mix of sustainable energy, water management and waste management infrastructure to manage the carbon footprint of the proposed new developments, to reduce the requirement for a fully treated potable supply of water and to manage waste in a clean and efficient way. The supplementary planning guidance referred to in recital 6 set out targets for energy and water efficiency, the deployment of renewable energy technology, a local sustainable source of non-potable water and a move towards a decentralised low carbon energy supply from an on-site combined heat and power plant. A sustainable energy system will connect individual sites to a community heating and power network compatible with many forms of renewable energy, including locally derived sources of renewable fuel, capable of being extended to serve the wider community. The "green" water supply system is to be based on the installation of two groundwater abstraction wells located at opposite ends of the core development area. These will draw water on a sustainable basis from the underlying chalk aquifer.
9. It is the Council's intention to establish in due course a special purpose joint venture delivery vehicle to be known as MUSCO ("Multi Utility Services Company") as a means of securing the key environmental infrastructure and services required to underpin a sustainable community at the Elephant & Castle and it is therefore considered necessary and desirable to make provision at this stage for future connection of the Development into such arrangements. It is proposed that the MUSCO will deliver low carbon energy, non-potable water and data services infrastructure for the Elephant & Castle Regeneration Area that is capable of being extended to other local regeneration schemes as appropriate. The

MUSCO will manage the use of the infrastructure in the case of heat, power and non-potable water as the sole provider and, in the case of data, as an infrastructure manager ensuring equitable access for all potential service providers and other procurers of bandwidth available in the network.

NOW THIS DEED WITNESSES:

1. DEFINITIONS AND INTERPRETATION

1.1 The following words and phrases shall unless bear the following meanings:

"Acts" Section 106 of the Town and Country Planning Act 1990, section 27 of the Greater London Council (General Powers) Act 1969, section 16 of the Greater London Council (General Powers) Act 1974, section 111 of the Local Government Act 1972, section 2 Local Government Act 2000 and each case any statutory amendment variation substitution or re-enactment thereof together with all other statutory powers and Acts pursuant to which the parties hereto shall be empowered to enter this Deed;

"Affordable Business Units" Five retail (A1) units and one restaurant (A3 or A4) unit as shown on Plan B to be provided to local traders at an initial discounted rental rate to the open market rental value for the first five years in accordance with paragraph 6 of Schedule 1;

"Affordable Housing" Housing that will be available to persons whose incomes are insufficient to enable them to buy housing generally available on the open market (and the term **"Affordable Housing Unit"** shall be construed accordingly);

"Approval" Approval of the Council or the determination of the Expert

"Applications"

The two planning applications for planning permission submitted by the Developer to the Council on 12 August 2005 to carry out the Development upon the Site (LBS Registered Numbers 05-AP-1693 and 05-AP-1694);

**"Archaeology
Contribution"**

The sum of £5,000 to be paid by the Developer to the Council and to be expended by the Council towards the monitoring costs of the Council's Archaeological Service in relation to the Development;

"Basement Area"

The area shown coloured pink on Plan 1. ^{2 attached to the Roads of Terms to the Works Agreements}

"Basement Area Works"

Works to provide an area of basement sufficient in depth and form to create a facility to the benefit of the Council and its successors in title for access and egress of delivery vehicles from New Kent Road beneath the Development, together with (if required by the Council) two break-out panels leading from the Basement Area to the Tunnels and the scope of such works shall comprise:

- a) all piling, retaining walls, concrete basement slab and suspended ground floor slab;
- b) access ramps;
- c) internal partitions and doors;
- d) escape staircase;
- e) lighting, smoke exhaust extract and drainage; and
- f) any additional or ancillary works the Council and the Developer agree to be necessary or desirable;

"Baxter Indices"

The price adjustment formulae for construction contracts produced by the Department of Trade and

	Industry;
"Borough"	The London Borough of Southwark in which the Site is situated;
"Committed"	Means that a payment or part payment of the Site and Development Contributions has been authorised either by a committee resolution or by an officer of the Council with appropriate written delegated authority;
"CHP"	Combined heat and power;
"CHP Unit"	Combined heat and power unit;
"Completion Date"	The date upon which of a certificate of practical completion in relation to any works (including without limitation the Development, the Main Development, the Market Square Works and the Basement Area Works) is issued by the Developer's architect, engineer, project manager or contract administrator as the case may be (and the terms "Complete", "Completed" and "Completion" shall be construed accordingly);
"Council"	The first named Party and any successors to its functions as local planning authority from time to time;
"Demolition"	The taking down of the existing structures on the Site or any substantial part thereof but excludes inter alia the removal of doors, flooring, fixtures, fittings, services and temporary structures including room partitions;
"Developer"	The second named Party;

"Development"

- a) Demolition of existing commercial units and construction of a new mixed use development comprising of three buildings above a two to three storey podium structure: northern building located on New Kent Road to consist of 15 storeys (66.7m) to use as hotel (Use Class C1); western building along Elephant Road to consist of 21 storeys (80m) to house office use (Use Class B1) with private and affordable residential units (Use Class C3) on the upper floors; southern building comprising of 12 storeys (53.8m) with private residential units (Use Class C3) and with cinema, retail and restaurant uses (Use Classes D2/A1/A3) at podium level and basement car parking, with associated storage facilities together with new landscaping to form part of a proposed market square (the "**Main Development**"); and
- b) the Market Square Works and the Basement Area Works;

"Development Framework" The supplementary planning guidance referred to in recital 6;

"Director of Regeneration" The Council's Director of Regeneration or any other officer or person exercising the authority of the Director of Regeneration for the time being;

"Education Contribution" The sum of £70,000 Index Linked to be paid by the Developer to the Council and to be expended by the Council on the provision of education and training in the vicinity of the Site;

"Environmental Improvement" The sum of £65,000 Index Linked to be paid by the Developer to the Council and to be expended by the Council on improvements to the public realm

Contribution"	including street lighting to the area adjacent to the Site
"Elephant & Castle Shopping Centre"	The shopping centre located on land lying to the west of Elephant Road, south of New Kent Road and north of Walworth Road;
"Elephant & Castle Regeneration Area"	The land within the Borough defined in Appendix 4 to the emerging Southwark Plan as "Site 43P" which is shown edged blue (and the "core area" of which is shown edged red) on Plan G;
"Expert"	Means an independent person appointed in accordance with the provision of Clause 19 to determine any dispute arising under this Deed;
"Implementation Date"	<p>The date upon which a material operation as defined in section 56 of the Town and Country Planning Act 1990 shall be carried out in respect of the Development upon the Site provided that the following matters shall not constitute a material operation and consequently shall not individually or together trigger the Implementation Date;</p> <ul style="list-style-type: none"> a) demolition; b) site clearance; c) the provision of infrastructure boreholes permitted by the Town and Country Planning General Development Order 1995 or any amendment or replacement thereof; d) the provision of underground drainage and sewers; e) construction of temporary accesses to facilitate the carrying out of the Development; f) construction of boundary fencing or hoardings;

- g) ecological or archaeological surveys, investigations or assessments;
- h) any temporary survey works; and
- i) works and operations including the creation of foundations to enable any of the foregoing to take place;

and for the avoidance of doubt for the purposes of this Agreement the date of the first such operation shall constitute the "Implementation Date" in relation to both of the Planning Permissions and the terms "Implement", "Implemented", "Implementation" and "Implement the Development" shall be construed accordingly ;

"Index Linked"

The relevant sum shall be (as appropriate) increased or decreased to reflect the net movement in the Index of Retail Prices (or, in the case of the Public Open Space Contribution, the Environmental Improvement Contribution and the Public Transport Improvement Contribution only, the Baxter Indices) covering the relevant period calculated from grant of planning permission, the amount of such increase or decrease to be calculated as follows:

$$\frac{A \times B}{C}$$

Where:

A = the relevant sum as specified in this Deed

B = the Index of Retail Prices or the Baxter Indices as appropriate at the date the relevant sum is payable

C = the Index figure as at grant of planning permission;

"Index of Retail Prices"

The index of retail prices published by the Office of National Statistics or by any other Department, Ministry or other body upon which the duties in connection with the index exists the index which replaces the same or if the nearest equivalent thereto as the Council shall reasonably nominate which shall be used for the following Site and Development Contributions, namely, the Public Open Space Contribution, The Environmental Improvement Contribution, The Education Contribution, the Training and Employment Contribution, the Safety and Security Contribution and the Public Transport Contribution;

"London Plan"

The Mayor of London's Spatial Development Strategy;

"Market Housing"

The residential accommodation within the Development which is for sale without restriction on the open market and the term "Market Housing Unit" shall be construed accordingly;

"Market Rental Value"

The estimated amount for which a property or unit within a property could be let on the date of valuation between a lessor and a lessee on appropriate lease terms in an arm's length transaction wherein the parties had acted knowledgeably, prudently and without compulsion;

"Market Square"

The open area to be constructed by the Developer on the Market Square Land;

"Market Square Land"

The land shown outlined in red on Plan E;

"Market Square Works"

Works to provide the Market Square which shall comprise:

- a) provision of a structural waterproofed slab over

the void excavated as part of the Basement Area Works with drainage to form a sub-base for hard and soft landscaping and cabling for lighting;

- b) installation of a goods lift with the creation of market traders' storage at basement level;
- c) hard and soft landscaping and installation of external lighting and power; and
- d) any additional or ancillary works which the Council and the Developer agree to be necessary or desirable.

"Mortgagee"

The third named Party;

"MUSCO Network"

A services infrastructure network proposed to be provided by the Council within the core area of the Elephant and Castle Regeneration Area in due course (as described in the Development Framework), including:

- (a) a district heating and power network;
- (b) a non-potable "green" water supply;
- (c) optical fibre based data and communications network supporting an internet protocol compatible system for monitoring, security and maintenance purposes (including fire alarm, security camera, intruder alert and energy monitoring functionality); and
- (d) other services as may be identified in due course in the design of the MUSCO Network (including cooling and waste management);

"Occupation Date"	The date when possession of a Residential Unit is first taken by a person who then occupies it as a residence (and the terms "Occupy" and "Occupation" shall be construed accordingly);
"Planning Permissions"	The planning permissions for the Development substantially in the form of the drafts attached hereto at Schedule 3;
"Public Open Space Contribution"	The sum of £30,000 Index Linked to be paid by the Developer to the Council and to be expended by the Council on improvement to local children's play facilities;
"Public Transport Improvement Contribution"	The sum of £160,000 Index Linked to be paid by the Developer to the Council to be expended by the Council on improvements to local public transport including any the improvements required by Transport for London;
"RICS"	The Royal Institution of Chartered Surveyors;
"Reasonable Endeavours"	Such effort and/or expenditure of money and the engagement of such professional or other advisors as in all the circumstances are reasonable (such efforts not to extend to taking proceedings in any court public inquiry or other hearing);
"Registered Social Landlord"	A registered social landlord as defined in Part I of the Housing Act 1996 who is registered with the Housing Corporation pursuant to Section 3 of that Act and has not been removed from the register pursuant to Section 4 of that Act or other affordable housing provider approved by the Council;
"Renewable Energy"	Technologies in the form of photovoltaics, biomass CHP, wind, or other forms of renewable energy

Technologies"	technology (each a "Renewable Energy Technology") for the purposes of generating renewable energy to meet all or part of the Development's requirements for energy and which are compatible with the MUSCo Network;
"Residential Units"	The Affordable Housing Units and the Market Housing Units within the Development;
"Safeguarding Works"	Works comprising additional piles and a concrete framed structure in order to accommodate loads resultant from a possible tram line to run in Elephant Road, the approximate position of which is shown coloured grey on Plan D, such works to be carried out within the area on that part of the site shown edged red on Plan D;
"Safety and Security Contribution"	The sum of £20,000 Index Linked to be paid by the Developer to the Council and expended by the Council on safety and security improvements in the vicinity of the Site including the provision of CCTV;
"Scope of Works"	The works to be carried out by or on behalf of the Developer in carrying out the Development;
"Shared Equity Units"	Affordable Housing to be made available within the Development and transferred to a Registered Social Landlord where the initial proportion of the equity (not being less than 20% and not more initially than 80% shall be sold on a long lease to the purchaser and subject to the provisions of the Housing Act 1988 the remainder of the equity is retained by the Registered Social Landlord without rent being charged in respect of the retained equity and on terms that entitle the purchaser eventually to acquire 100% of the equity through Staircasing;

"Site"	The land known as Elephant Road Industrial Estate, 1-7 (odd) Elephant road, London , registered at HM Land Registry under title number SGL500495;
"Site and Development Contributions"	The Public Open Space Contribution, the Environmental Improvement Contribution, the Education Contribution, the Training and Employment Contribution, the Safety and Security Contribution and the Public Transport Contribution;
"Staircasing"	The purchase by the occupier of a Shared Equity Unit of additional equity in the Shared Equity Unit;
"Training and Employment Contribution"	The sum of £50,000 Index Linked to be paid by the Developer to the Council and to be expended by the Council on one or more of the Council's training and employment initiatives;
"Tunnels"	Tunnels which may in future be constructed by the Council from the Basement Area beneath the railway viaduct adjacent to Elephant Road to the proposed new shopping area at the Elephant & Castle or to any other location adjacent to the Basement Area;
"UDP"	The Council's 1995 Unitary Development Plan;
"Works Agreements"	A suite of legal agreements proposed to be entered into between the Council and the Developer immediately after completion of this Deed in a form reflecting the principles set out in the heads of terms appended to this Deed at Schedule 5 to facilitate the carrying out of the Market Square Works and the Basement Area Works, to effect transfer and grant of various interests in the land upon which the works are to be carried out and to make provision for the operation of shared access to the Basement Area;

- 1.2 Where in this Deed reference is made to a clause, paragraph, schedule or plan it is to a clause, paragraph, schedule or plan in this Deed.
- 1.3 Headings used in this Deed are an aid to interpretation only and do not form part of this Deed.
- 1.4 A reference to any statute or statutory provision shall be construed as a reference to the same as it may have been, or may from time to time be amended, modified or re-enacted.
- 1.5 Obligations not to do any thing include obligations not to permit or knowingly suffer such thing to be done.
- 1.6 References in this Deed to the Developer shall include reference to its respective successors in title and persons claiming through or under it.
- 1.7 References in this Deed to the Council shall include reference to its successors as local authority and local planning authority.

2. STATUTORY PROVISIONS

This Deed is made pursuant to the Acts and both the positive and restrictive covenants and undertakings herein on the part of the Developer are entered into with the intent that the same shall be enforceable without limit of time not only against the Developer but also against its successors in title and assigns and any person claiming through or under the Developer an interest or estate in the Site or any part or parts thereof created hereafter as if that person had also been an original covenanting party in respect of such of the covenants and undertakings which relate to the interest or estate for the time being held by that person.

3. LEGAL EFFECT

- 3.1 Clauses 1, 2, 3, 8, 9, 10, 12, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22 shall come into effect on the date of this Deed.
- 3.2 Clauses 4, 5, 6, and 7 shall come into effect on the grant of Planning Permission.

4. DEVELOPER'S COVENANTS

- 4.1 The Developer covenants with the Council to observe and perform or cause to be observed and performed the obligations contained in Schedule 1 to this Deed at the times and in the manner provided therein.
- 4.2 The Developer shall pay the Site and Development Contributions by way of CHAPS transfer into National Westminster Bank plc Account Number 27540006 Sort Code 51-50-03 at London Bridge Branch PO Box 35, 10 Southwark Street, London SE1 1TT as specified in Schedule 1 or such other account as the Council shall nominate.
- 4.3 The Developer covenants to indemnify the Mortgagee and keep the Mortgagee indemnified in respect of all actions, suits, costs, claims, demands or expenses arising from the Developer's failure to comply with the terms of this Deed Provided That:
 - 4.3.1 the Mortgagee shall not carry out permit or suffer Implementation without the express written consent of the Developer;
 - 4.3.2 the Mortgagee shall promptly notify the Developer of any claim which it receives; and
 - 4.3.3 the Mortgagee shall not compromise any claim without the express written consent of the Developer.

5. THE MORTGAGEE

- 5.1 So as to bind its interest in the Site, the Mortgagee severally covenants with the Council that it shall be bound by the obligations on the part of the Developer Provided That:
 - 5.1.1 it shall not be obliged to observe and perform these obligations unless and until it shall be in possession of the Site; and
 - 5.1.2 it shall cease to be liable in respect of such obligations on ceasing to be in possession of the Site.

- 5.2 The Mortgagee consents to the Developer entering into this Deed, acknowledges that the Developer's freehold estate in the Site shall be bound by the obligations contained in this Deed and consents to the registration of this Deed in the Charges Register to title number SGL500495.

6. COUNCIL'S COVENANTS

The Council covenants to observe and perform or cause to be observed or performed the obligations in Schedule 2 to this Deed.

7. DEVELOPER TO NOTIFY COUNCIL

The Developer undertakes to notify the Council by written notice:

- 7.1.1 of its intention to Implement the Development, 21 days prior to its Implementation;
- 7.1.2 immediately of the occurrence of the Implementation Date; and
- 7.1.3 three months prior to anticipated Completion;
- 7.1.4 immediately of the occurrence of the Completion Date; and
- 7.1.5 immediately of the occurrence of the Occupation Date.

8. REGISTRATION

- 8.1 Immediately after the execution of this Deed, the Developer shall make application to H.M. Land Registry for entries relating to this Deed to be made in the charges register of the Title Numbers referred to in recital 1 above.
- 8.2 If the Developer fails to make such application the Council may (without prejudice to any other right) be entitled to register the Deed as aforesaid and thereafter recover the expenses incurred in doing so from the Developer and the Developer covenants and the Mortgagee hereby severally covenants with the Council to do or concur in doing all things necessary or advantageous to enable the said entries to be made.
- 8.3 The covenants on behalf of the parties hereto to be observed and performed under this Deed are registrable as Local Land Charges and shall be registered by the Council in the Local Land Charges Register for the purposes of the Local Land Charges Act 1975.

9. SITE NOT TO BE ENCUMBERED

The Developer covenants with the Council that it will not encumber nor deal with the Site in any manner whereby any party hereto may be prevented from carrying out or enforcing any covenant or obligation contained herein Provided That for the avoidance of doubt this clause will not prevent any disposal or dealing that is subject to the terms of this Deed by the grant of lease or otherwise of the Developer's interest in any part of the Site.

10. RELEASE

No person shall be liable for any breach of the covenants restrictions or obligations contained in this Deed occurring after he has parted with his interest in the Site or the part in respect of which such breach occurs (but without prejudice to the liability of such person for any breach occurring prior to his parting with such interest).

11. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

A person who is not named in this Deed does not have any right to enforce any term of this Deed under The Contract (Rights of Third Parties) Act 1999.

12. INTEREST ON LATE PAYMENT

Without prejudice to any other right remedy or power herein contained or otherwise available to the Council if any payment of any sum referred to herein shall have become due but shall remain unpaid for a period exceeding seven days the Developer shall pay on demand to the Council interest thereon at the interest rate of two percentum per annum above the base lending rate of the National Westminster Bank plc from the date when the same became due until payment thereof.

13. WAIVER

No waiver (whether express or implied) by the Council of any breach by the Developer of its obligations hereunder shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of those obligations or from acting upon any subsequent breach in respect thereof by the Developer.

14. NOTICES

14.1 Any notice or other communication to be given under or in connection with this Deed shall be in writing which for this purpose shall not include e-mail and may be addressed as provided in this clause 14.

14.2 Any such notice or other communication, if so addressed, shall be deemed to have been received as follows:

14.2.1 if delivered by hand, upon delivery at the relevant address;

14.2.2 if sent by first class post, at 9.00 a.m. on the second working day after the date of posting; and

14.2.3 if sent by facsimile, when successfully transmitted except that where any such notice or other communication is or would otherwise be deemed to be received after 5.30 p.m., such notice or other communication shall be deemed to be received at 9.00 a.m. on the next following working day.

14.6 The address, facsimile number, relevant addressee and reference for each party are:

For the Council:

Address: Chiltern House, Portland Street, London SE17 2ES;

Facsimile number: 0207 525 5432;

Relevant addressee: The Head of Planning;

Reference: S106/50New Kent Road.

For the Developer:

Address: c/o South Central Management Company, The Factory, Tennis Court, 9 Winchester Square London SE1 9BP

Facsimile number: 0207 407 0558

Relevant addressee: Mr Martin Lent

Reference: Castle Industrial Estate s.106

For the Mortgagee:

Address: c/o The Royal Bank of Scotland, Real Estate Finance, 8th Floor,
280 Bishopsgate, London EC2M 4RB

Facsimile number: 020 7672 1126;

Relevant addressee: Andy Houghton;

Reference: S106/50 New Kent Road.

14.7 A party may give notice of a change to its name, address, facsimile number or relevant addressee for the purposes of this clause provided that such notification shall only be effective on:

14.7.1 the date specified in the notification as the date on which the change is to take place; or

14.7.2 if no date is specified or the date specified is less than five clear working days after the date on which notice is received or deemed to be received, the fifth working day after notice of any such change is given.

15. COUNCIL'S LEGAL AND ADMINISTRATIVE COSTS

The Developer shall on the date hereof pay to the Council, receipt of which is hereby acknowledged, by way of a cheque made payable to the "London Borough of Southwark":

15.1.1 the Council's reasonable legal costs in the preparation and negotiation of this Deed;
and

15.1.2 the sum of £8000 towards the reasonable costs to be incurred by the Council in administering this Deed including maintenance of financial records, monitoring the progress of the Development (including receipt of payments made) and monitoring compliance with the terms of this Deed.

16. VAT

16.1 All consideration given in accordance with the terms of this Deed shall be exclusive of any VAT properly payable in respect thereof.

16.2 Nothing in this Deed shall entitle the Council to claim indemnity in respect of any VAT on any consideration given to the Council which the Council is entitled to reclaim as an input or would be so entitled if the Council had elected to waive exemption in accordance with the Value Added Tax Act 1983.

17. EXPENDITURE

17.1 To the extent that any of the facilities referred to in Schedule 1 have been provided or can be provided by the Council to the extent reasonably required for less than the corresponding sum identified for its provision or are no longer required the resulting surplus balance may be expended or applied by the Council as appropriate on any of the other facilities referred to in the said paragraphs and the Council shall consult the Developer as to which and take proper account (but shall not be bound by) the Developer's views in that regard.

17.2 To the extent that any of the money referred to in Schedule 1 which has been paid by the Developer to the Council has not been spent or Committed by the Council within five years of the date of payment the Council shall repay the sum or the unexpended portion thereof to the Developer with such interest as may have accrued to or been paid to the Council unless the Developer agrees otherwise.

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18. DISPUTE RESOLUTION

- 18.1 Without prejudice to the other provisions of this Clause 18, in the event of any dispute arising the parties shall endeavour to resolve it amicably but if the parties fail to resolve the dispute amicably, the dispute shall be resolved in accordance with the provisions of this Clause 18 unless either party takes proceedings in any court, public inquiry or other hearing.
- 18.2 If any dispute arises in connection with this Deed, directors or other senior representatives of the parties hereto with authority to settle a dispute will within 28 days of a written request from one party to the other, meet in a good faith effort to resolve the dispute.
- 18.3 In the event that the dispute is not resolved in accordance with clause 18.2 above the parties hereto may refer the dispute to an Expert to be agreed upon between the Developer and the Council or at the request and option of either of them to be nominated at their joint expense by or on behalf of the President for the time being of the RICS and the Expert shall act as an expert and not as an arbitrator and whose decision shall be final and binding on the parties hereto and whose costs shall be at his discretion or failing such a determination borne by the parties in equal shares.
- 18.4 The Expert shall be appointed subject to an express requirement that he reaches his decision and communicates it to the parties within the minimum practicable timescale allowing for the nature and complexity of the dispute from the date of this appointment to act.
- 18.5 The Expert shall be required to give notice to each of the parties inviting each of them to submit to him within ten working days written submissions and supporting material and shall afford to each of the parties an opportunity to make counter-submissions within a further five working days in respect of any such submission and material and his decision shall be given in writing with reasons and in the absence of manifest error shall be binding on the parties.
- 18.6 In the absence of any directions by the Expert as to costs his costs shall be borne equally between the parties and the parties shall bear their own costs.

19. APPROVALS BY THE COUNCIL

19.1 Where approval of scope of works submitted to the Council in accordance with this Deed is required, the Developer and the Council will consult with each other and shall take proper account of each other's views to enable such submission and approval process to be dealt with in a reasonable manner and within a reasonable timeframe.

19.2 If at any time the Developer (acting reasonably and having complied with its obligations in clause 19.1) believes that the Council is not proceeding with such approval process within a reasonable timeframe in accordance with sub-clause 19.1 such that the carrying out of the Development is or may be delayed then the Developer may serve notice on the Council requiring the Council to determine the submission within 28 days. If the Council shall fail to determine the submission within 28 days then the Developer may refer the matter to dispute resolution in accordance with clause 18.

20. LAPSE

This Deed shall lapse and be of no further effect if:

20.1.1 the Planning Permission shall lapse without having been Implemented; or

20.1.2 the Planning Permission shall be varied or revoked other than with the consent of the Developer; or

20.1.3 the Planning Permission is quashed following a successful legal challenge.

21. REGISTERED SOCIAL LANDLORD'S MORTGAGEE IN POSSESSION

For the avoidance of doubt the provisions contained in this Deed shall not be binding nor enforceable against the mortgagee of the Registered Social Landlord or any receiver of such mortgagee or any persons deriving title under them and who is a mortgagee in possession of a relevant unit in the event that the mortgagee of the Registered Social Landlord seeks to dispose of the relevant Shared Equity Units pursuant to its power of sale exercised pursuant to default of the terms of the mortgage or any such receiver seeks to dispose of the relevant Shared Equity Units or any persons deriving title therefrom.

22. MISCELLANEOUS

22.1 The construction validity and performance of this Deed shall be governed by English law.

- 22.2 Each clause, sub-clause or schedule shall be separate distinct and severable from each other to the extent only that if any clause, sub-clause or schedule becomes or is invalid because of a change of circumstances or any other unforeseen reasons or if any one or more of such clause, sub-clause or schedule shall be held by the Courts to be void for any reason whatsoever but would be valid if severed or any wording was deleted or any time period reduced or scope of activities or area covered diminished then any modifications necessary to ensure such clause sub-clause schedule or paragraph be valid shall apply without prejudice to any other clause, sub-clause or schedule contained herein.
- 22.3 In the event of the planning obligations contained in this Deed being modified a note or memorandum thereof shall be endorsed upon this Deed.
- 22.4 If the Planning Permission shall expire before the Development has been Implemented within the meaning of Sections 91, 92 or 93 of the Town and Country Planning Act 1990 or is revoked, is quashed as a result of any legal proceedings or is otherwise withdrawn without the consent of the Developer or its successors in title this Deed shall cease to have effect thereupon.
- 22.5 Nothing in this Deed shall be construed as prohibiting or limiting any right to develop the Site or any part of it in accordance with a planning permission (other than the Planning Permission) granted by the Council or by the relevant Secretary of State on appeal or by reference to him after this date.
- 22.6 Where by this Deed any action, approval, consent, direction, authority or agreement is required to be taken, given or reached by any party, any such action, approval, consent, direction, authority or agreement shall not be unreasonably withheld or delayed.
- 22.7 Nothing in this Deed shall prejudice or affect the rights powers duties and obligations of the Council under private or public statutes bye-laws orders and regulations and the same may be as fully effectively exercised as if it were not a party to this Deed.

SCHEDULE 1

The Developer's Obligations

1. FINANCIAL CONTRIBUTIONS

- 1.1 On completion of this Deed, the Developer shall pay to the Council the Archaeology Contribution.
- 1.2 On completion of this Deed, the Developer shall pay to the Council the Public Open Space Contribution and the Developer shall not Implement the Development until it has done so.
- 1.3 On Completion of the first block of Residential Units within the Development, the Developer shall pay to the Council the Environmental Improvement Contribution and shall not Occupy the Development until it has done so.
- 1.4 Within 18 months of Implementation of the Development or before Completion (to shell and core standard and excluding fitting out) whichever first occurs the Developer shall pay to the Council:
 - 1.4.1 the Education Contribution; and
 - 1.4.2 the Training and Employment Contribution;and shall not Occupy the commercial element of the Development until it has done so.
- 1.6 Within 24 months of Implementation the Developer shall pay to the Council:
 - 1.6.1 the Public Transport Improvement Contribution; and
 - 1.6.1 the Safety and Security Contribution;

and shall not Occupy more than 50% of the Development until it has done so.

2. PROVISION OF THE MARKET SQUARE AND THE BASEMENT AREA

2.1 The Developer shall not Implement the Development unless:

2.1.1 the Works Agreements have been entered into; and

2.1.2 there has been submitted to the Council, and the Council has approved, full structural details for the scope of works for the Market Square Works and the Basement Area Works, such details to include such information as the Council and its consulting engineers may reasonably require as regards the structural stability and/or load bearing capacity of the parts of the Basement Area where the Tunnels are proposed to be constructed.

2.2 The Developer shall not occupy more than 70% of the Market Housing Units until the Basement Area Works have been Completed in accordance with the Works Agreements (with the exception of the works set out in Schedule 6 to this Agreement) and the details approved by the Council pursuant to this paragraph 2 (and any areas within the Basement Area associated with the residential units have been Completed).

2.3 The Developer shall not occupy more than 70% of the Market Housing Units until the Market Square Works have been Completed in accordance with the Works Agreements and the details approved by the Council pursuant to this paragraph 2.

2.4 The Developer shall allow the Council and its consulting engineers from time to time on reasonable notice to enter upon the Site to inspect the Basement Area Works and shall provide the Council and/or its consulting engineers with such information as they may reasonably require in relation to those works.

3. SAFEGUARDING ARRANGEMENTS FOR THE CROSS RIVER TRAM

- 3.1 The Developer shall not Implement the Development unless it has submitted to the Council, and the Council has approved, a detailed scope of works for the provision of the Safeguarding Works together a detailed scope of works for the provision of foundations for a possible tram station if so required by the Greater London Authority or Transport for London who are responsible for the Cross River Tram, or by the Council acting as their agents
- 3.2 Unless otherwise agreed by the Council the Developer shall not Occupy the Development until the Safeguarding Works have been carried out in a good and workmanlike manner in accordance with the detailed scope of works approved by the Council pursuant to this paragraph 3 to the Council's reasonable satisfaction.

4. PROVISION OF ACCESS TO THE HEYGATE ESTATE

- 4.1 The Developer shall not Implement the Development unless it has submitted to the Council, and the Council has approved, a detailed scope of works for a protected temporary pedestrian access to the residential blocks adjacent to the blocks within the Heygate Estate known as "Claydon" and "Cuddington" situated to the eastern boundary of the Site in the approximate location as identified on Plan F.
- 4.2 The Developer shall provide and maintain such pedestrian access at all times during the construction of the Development until such time as a permanent means of access is created to the said residential blocks at any time during the carrying out of the Development or at the Completion of the Development for so long as the said residential blocks have not been vacated or demolished.

5. AFFORDABLE HOUSING

- 5.1 Unless otherwise agreed by the Council, the Developer shall on completion provide five (5) Shared Equity Units consisting of 1 bedroom self-contained apartments representing an approximate net internal area of 229 sqm (2,465 sq ft).
- 5.2 The location of the Shared Equity Units shall unless the Council otherwise agreed be that which is shown on Plan D, being the 7th floor level in the West Building of the proposed development, unless otherwise agreed with the Director of Planning.
- 5.3 The Shared Equity Units shall be constructed and completed in accordance with the

Housing Corporation Development Standard and Lifetime Homes Standards.

- 5.4 Unless otherwise agreed by the Council, the Developer will not Occupy or allow Occupation of more than 50% of Market Housing until such time as the Developer has received written notice from the Council to the effect that in the reasonable opinion of the Council:

5.4.1 the works of construction and fitting out of the Shared Equity Units have been completed in accordance with the requirement of paragraph 5.3; and

5.4.2 the Shared Equity Units have been transferred to a Registered Social Landlord.

6. AFFORDABLE BUSINESS SPACE

- 6.1 The Developer shall provide the Affordable Business Units in shell form without shop fronts but with service heads provided at a discount to open market rental value for an initial period of five years.

- 6.2 The Developer shall have the right to substitute alternative units for the identified units provided that the alternative units are in a similar location and of a similar size.

- 6.3 The Affordable Business Units referred to in paragraph 6.1 above shall be offered for rent not later than 15 months prior to the estimated date of practical completion to shell form to persons who at the date of this Deed operate a business from premises within the Elephant & Castle Shopping Centre and who will be displaced by the development of those premises (not being a business which operates more than 3 retail outlets or employs more than 10 full-time staff). Such persons shall be identified by means of a process to be set out by the Developer acting reasonably and in consultation with the Council and proposed by the Council to the Developer who shall then comment on the choice and determine if the tenant is suitable having regard to the overall tenant mix and financial credibility of the proposed tenants and in accordance with paragraph 6.8.

- 6.4 In the event that suitable persons are identified following the selection process the tenants of the Affordable Business Units shall be agreed between the Developer and the Council not later than 6 months prior to the Affordable Business Units being available for occupation in shell form and if the Developer and the Council cannot agree on the identity of the final tenant or tenants of any or all of the Affordable Business Units then the matter may be referred to an Expert in accordance with the provisions of clause 19 who shall have regard to the provisions of paragraph 6.8 and , inter alia, tenant mix and financial

credibility. If at the later of 6 months prior to the Affordable Business Units being available for occupation in shell form or the expert's determination following for referral in accordance with this clause 6.4, a suitable tenant or tenants cannot be found by the Council or the Developer for any or all of the units the Developer shall be released from the obligations of this paragraph 6 for the purposes of that unit or units. A tenant who is identified as suitable for the Affordable Business Unit shall accept the terms offered within 3 months of an offer being made by reference to paragraph 6.5 below.

6.5 If the persons identified through the processes set out in paragraphs 6.3 and 6.4 of this schedule agree to take up:

6.5.1 one of the allotted retail units, the rent applicable to that unit will be provided on the following basis.

Year 1	Rent free
Year 2	£15psf x NIA of Unit
Year 3	(Market Rental Value - £15psf) x 25% + £15psf x NIA
Year 4	(Market Rental Value - £15psf) x 50% + £15psf x NIA
Year 5	(Market Rental Value - £15psf) x 75% + £15psf x NIA
Years 6-10	Review to Market Rental Value

6.5.2 the allotted restaurant unit, the rent applicable to that unit will be provided on the following basis:

Year 1	Rent free
Year 2	£17.50 psf x NIA of unit
Year 3	(Market Rental Value - £17.5psf) x 25% + £17.50psf x NIA
Year 4	(Market Rental Value - £17.5psf) x 50% + £17.50psf x NIA
Year 5	(Market Rental Value - £17.5psf) x 75% + £17.50psf x NIA
Years 6-10	Review to Market Rent Value

(in each case, where "Market Rental Value" in respect of Years 3, 4 and 5 is defined as the Market Rental Value as at the commencement of year 1 of the term, "Market Rental Value" in respect of years 6-10 is defined as the Market Rental Value at Rent Review which takes place at year 5 and "NIA" represents the total

floor area within the walls of the created commercial unit completed to shell finish).

6.5.3 The other main terms of the leases shall be as follows:

Term - 10 years

Rent Review - review to Market Rental Value at the end of the 5th year of the term

Break Clause - Tenant's option to break upon not less than 6 months prior notice at the end of the 5th year of the term.

Alienation - The lease shall be fully assignable. The rent to be reviewed to Market Rental Value at the time of assignment (i.e. the new tenant would pay the open market rent). Subletting of whole or part to be prohibited.

Repairs - Tenant to be responsible for all internal non-structural repairs and of dilapidations at the expiration of the lease or on the occasion of a lease break or upon vacating the unit.

Service Charges - to be fair and reasonable.

6.6 If one or more of the persons fail to take up their allotted unit(s) having regards to the timescales set out in paragraphs 6.3 and 6.4 of this schedule the unit shall be available to let in the open market on open market rental terms as the Developer shall decide.

6.7 The retail (A1) units and the restaurant (A3/A4) unit referred to in paragraph 6.1 above shall be as shown on Plan B unless the Council otherwise agrees acting reasonably and shall be identified as:

Ground Floor Kiosk – Retail Unit 0.5 (160 sq ft or 14.8m²)

Ground Floor Kiosk – Retail Unit 0.6 (160 sq ft or 14.8m²)

Ground Floor Kiosk – Retail Unit 0.7 (160 sq ft or 14.8m²)

First Floor Retail Unit – Retail Unit 1.2 (475 sq ft or 44.1m²)

First Floor Retail Unit – Retail Unit 1.3 (685 sq ft or 63.6m²)

and the restaurant (A3) unit referred to in paragraph 6.1 above shall be situated at ground and first floor gallery level and comprising 2,300 sq. ft. or 213.6m²

6.8 The Developer shall not be required to let any unit to any person who following inquiry of previous landlords and bank references appears in the Developer's reasonable opinion (which opinion is to be notified to the Council) to be:

6.8.1 a person who has been made bankrupt in the preceding five years;

6.8.2 a person who in their current commercial accommodation at the Elephant and Castle Shopping Centre has been found to be persistently late in the payment of rent and service charges over the preceding five years;

6.8.3 a business or person who commenced trading in the Elephant and Castle Shopping Centre after 19th February 2004

6.9 If any of the circumstances set out in paragraph 6.8 apply to any person proposed by the Council and that person is deemed unacceptable in accordance with that paragraph the unit shall be nominated to another business at the date of this Deed trading in the Elephant and Castle Shopping Centre and so on as necessary until let or, in the absence of a suitable nominee within the timescales set out in 6.3 and 6.4 of this schedule, the unit shall be made available to let on the open market on open market terms as the Developer shall decide.

6.10 In addition to the foregoing the Developer shall no later than 15 months before the anticipated practical completion of the retail units to shell finish offer the retail units within the development which are not defined as Affordable Business Units on market terms on a first refusal basis to businesses operating in the Elephant and Castle Shopping Centre. The businesses shall have 3 months to exchange unconditional contracts in respect of those units from the date of the offer made by the Developer and if any such business does not exchange an unconditional contract within 3 months of offer the units shall be available to let in the open market on open market rental terms as the Developer shall decide. The Developer shall at all times act reasonably in respect of the selection of tenants.

7. BICYCLE STORAGE

The Developer shall provide on completion secure on site bicycle storage for 220 bicycles for residents within the scheme and an additional secure on site bicycle storage for 119 bicycles for use by the commercial users and general public.

8. RENEWABLE ENERGY TECHNOLOGIES

- 8.1 Prior to Commencement of the Development, the Developer shall undertake a detailed feasibility and implementation study (the scope of which shall be agreed with the Council) for inclusion within the Development of Renewable Energy Technologies capable of providing a target of at least 10 per cent of the energy requirements of the Development (or such other lower level as may be agreed in writing by the Council) and shall provide the Council with a copy of the results of the study once it has been carried out.
- 8.2 If the results of the study demonstrate that the inclusion of Renewable Energy Technologies within the Development would be technically feasible and capable of providing at least 10 per cent of the energy requirements of the Development (or such other lower level as may be agreed in writing by the Council), then the Developer shall provide within the Development such of the Renewable Energy Technologies which alone or in combination are sufficient to meet at least 10 per cent of the energy requirement of the Development (or such other lower level as may be agreed in writing by the Council).
- 8.3 If the results of the study demonstrate that the inclusion of Renewable Energy Technologies within the Development would be technically feasible but not capable of providing 10 per cent of the energy requirements of the Development (or such other lower level as may be agreed in writing by the Council), then the Developer shall provide within the Development such of the Renewable Energy Technologies which alone or in combination are sufficient to meet as much of the energy requirement of the Development as the study demonstrates is feasible.
- 8.4 The Developer shall before Commencement of the Main Development pay the sum of £15,000 to the Council toward the costs of carrying out a feasibility study into urban wind as a renewable technology for use in due course within the Regeneration Area.

9. MUSCO NETWORK

- 9.1 The Developer and the Council shall use Reasonable Endeavours to liaise with each other, each acting reasonably and in good faith at all times, during the detailed design phase of the Development to ensure that the requirements of this paragraph 9 are met.
- 9.2 The Developer shall ensure that:
- 9.2.1 the service interface within the Development can accommodate all reasonable service entry routes including sleeves, pipe work, reasonable access and space necessary for these purposes;

- 9.2.2 provision is made in the design of the Development for a connection to the MUSCO high voltage electricity service;
- 9.2.3 individual low voltage supplies to Residential Units and commercial units are metered using internet protocol addressable meters;
- 9.2.4 provision is made in the design of the Development for a connection to the district heating element of the MUSCO Network, and a localised heating flow and return pipework system is installed within the Development which connects to the heating and hot water system in each Residential Unit;
- 9.2.5 the pipework to each Residential Unit is fitted with isolation valves and an Internet Protocol addressable heat meter so that consumption of thermal energy can be monitored;
- 9.2.6 an allowance is made within the Development for hot water generation by way of secondary hot water cylinders or heat exchangers connected to localised heating mains;
- 9.2.7 provision is made in the design of the Development for the connection to the area-wide fibre optic network provided by the MUSCO Network;
- 9.2.8 there is provided within the Development a fibre optic connection to each dwelling and commercial unit;
- 9.2.9 the internal fibre optic network is a passive optical network utilising single mode fibre to ITU G652 or G655 standard for horizontals and risers where appropriate, and that the interface between risers and horizontals is via a passive splitter with a maximum of 1:4 split;
- 9.2.10 the internal fibre optic network terminates within each unit via a consumer unit presenting RJ45, RJ11 and standard CATV/RF coaxial and optical formats;
- 9.2.11 the internal fibre optic network is designed and installed so that building management, monitoring and safety systems are internet protocol addressable and otherwise compatible with those used in the MUSCO Network; and
- 9.2.12 that these elements of the design of the Development otherwise take into account such other reasonable measures and further detail to facilitate

connection to the MUSCO Network as the Council may reasonably require during the detailed design phase of the Development PROVIDED THAT for the avoidance of doubt the Developer shall not once the detailed design is substantially completed be obliged to change the detailed design of the Development and PROVIDED FURTHER for the avoidance of doubt that if the Council's proposals for or the design of the MUSCO Network change rendering the existing equipment provided pursuant to this paragraph 9.2 obsolete or incompatible with the Development the Developer will not be required to incur any further costs in seeking to connect the Development to the MUSCO Network.

9.3 Subject to paragraphs 9.4 and 9.5, in the event that the Council procures the installation of the MUSCO Network with sufficient capacity to serve the Elephant & Castle Regeneration Area and provided that the MUSCO Network is capable of connection to the Development as provided for in paragraph 9.2, the Developer shall allow the Council or its nominee to connect the MUSCO Network to the Development to allow the heating, power and hot water requirements of the Development to be supplied through the MUSCO Network and to enable a data connection between the MUSCO Network and the Development to be established PROVIDED THAT with regard to heating and hot water only, following the making of any such connection, the cost in sourcing heating and hot water services by the Residential Units and commercial units will not materially increase.

9.4 The Developer shall not be obliged to source power or data services from the MUSCO Network but, subject to paragraph 9.3, the Developer shall inform occupiers and potential occupiers of the existence and purpose of the MUSCO Network.

9.5 The Developer will not be responsible for making the physical connection of the Development to the MUSCO Network or any costs relating thereto (other than in complying with this paragraph 9).

10. NON-POTABLE "GREEN" WATER

10.1 The Developer and Council shall use Reasonable Endeavours to liaise with each other, each acting reasonably and in good faith at all times, during the detailed design phase of the Development to ensure that the requirements of this paragraph 10 are met.

10.2 Subject to the provisions of paragraph 10.3 and 10.4 below and unless otherwise agreed with the Council, the Developer shall ensure that:

- 10.2.1 a valved and capped branch connection is made available for a connection to the MUSCO Network non-potable "green" water supply;
 - 10.2.2 non-potable water connections are installed to each dwelling and commercial unit within the Development and that points of supply for facilities management and irrigation are valved and fitted with an internet protocol addressable water meter; and
 - 10.2.3 non-potable water distribution pipework within the Development is pre-insulated proprietary pipe-quality pipework, suitable for non-potable water distribution and is clearly marked so as to distinguish it from the potable water system.
- 10.3 Subject to paragraphs 10.4 and 10.5, in the event that the Council procures the installation of the MUSCO Network with sufficient capacity to serve the Elephant & Castle Regeneration Area and provided that the MUSCO Network is capable of connection to the Development as provided for in paragraph 10.2, the Developer shall allow the Council or its nominee to connect the MUSCO Network to the Development to enable the non-potable "green" water requirements of the Development to be supplied through the MUSCO Network PROVIDED THAT and for the avoidance of doubt if the Council's proposals for or the design of the MUSCO Network change rendering the existing equipment provided pursuant to paragraph 10.2 above obsolete or incompatible with the Development the Developer will not be required to incur any further costs in seeking to connect the Development to the MUSCO Network.
- 10.4 The Developer will not be responsible for making the physical connection of the Development to the MUSCO Network or any costs relating thereto (other than the cost involved in complying with this paragraph 10).

11. LOCAL EMPLOYMENT

- 11.1 Subject to the provision of a reasonable proposal in accordance with paragraph 4 of Schedule 2 the Developer shall use Reasonable Endeavours to ensure (by *inter alia* ensuring that letting documents contain relevant obligations) that the tenants (and any assignees and sub-tenants of such tenants) of the commercial units shown [] on Plan B shall be required as part of their terms of tenancy or occupancy to liaise with the Council and any appropriate local employment agencies to ensure that no less than 30% of the

workforce employed within each such commercial unit shall be comprised of residents of the Borough.

- 11.2 The Developer undertakes to liaise with officers from Council's Economic Development Team to promote measures supported by the Council to improve access to construction employment and training.

SCHEDULE 2

THE COUNCIL'S OBLIGATIONS

1. SITE AND DEVELOPMENT CONTRIBUTIONS

- 1.1 On receipt of any of the Site and Development Contributions (or part thereof) the Council will forthwith deposit such sums or amounts into a interest bearing account designated for the Site (the "Site Account") until such time as such sums or amounts are required for the purposes respectively for which the same were received.
- 1.2 The Council covenants and undertakes to apply the Site and Development Contributions (and interest accrued thereon) in accordance with the provisions of this Deed.
- 1.3 The Council will provide the Developer on no less than a quarterly basis a written statement of expenditure from the Site Account specifying the nature of works or expenses carried out or issued and the amount expended.

2. HIGHWAY STOPPING UP PROCEDURES

The Council shall use all Reasonable Endeavours to deal promptly with an application properly made by the Developer for a highway stopping up order under section 247 of the Town and Country Planning Act 1990 and to the extent that such application relates to New Kent Road, the Council shall liaise as appropriate with Transport for London and the Greater London Authority.

3. HIGHWAY OVERHANGING LICENCES

The Council shall use all Reasonable Endeavours to deal promptly with an application properly made by the Developer for a pavement overhang licences under sections 115B, 115E and 177 of the Highways Act 1980 and section 50 of the New Roads and Street Works Act 1991 and to the extent that such application relates to New Kent Road, the Council shall liaise as appropriate with Transport for London and the Greater London Authority.

4. LOCAL EMPLOYMENT

The Council shall prior to the letting of the commercial units by the Developer prepare an outline proposal to achieve the 30% local employment provision through Job Centre and

other advertisements. The Council shall provide the outline proposal within six weeks of receipt of written notice served on the Council's Director of Regeneration at Council Office, Chiltern House, Portland Street, London SE17 2ES from the Developer that it requires the outline proposal. If no proposal is provided the Developer will be released from the obligation contained in paragraph 9 of Schedule 1.

5. **ISSUE OF PLANNING PERMISSIONS**

The Council shall use all Reasonable Endeavours to issue the Planning Permissions promptly on completion of this Agreement.

6. **WORKS AGREEMENT**

The council will act reasonably in negotiating the forms of the Works Agreements with the Developer and will instruct its solicitors to respond to the Developer's solicitors promptly in agreeing the forms of the Works Agreements and will execute and complete the Works Agreement promptly following settling the final form of the documents.

SCHEDULE 3

The Planning Permissions

TP(Permit)

SOUTHWARK COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)



www.southwark.gov.uk

PLANNING PERMISSION WITH LEGAL AGREEMENT

Applicant Eadon Estates
Date of Issue of this decision

LBS Registered Number 05-AP-1693
Case Number TP/1096-C

Planning Permission was GRANTED for the following development:

Demolition of existing commercial units and construction of a new mixed use development comprising of three buildings above a two to three storey podium structure: Northern building located on New Kent Road to consist of 15 storeys (66.7m) to use as hotel (Use Class C1); western building along Elephant Road to consist of 21 storeys (80m) to house a office use (Use Class B1) with private and affordable residential units (Use Class C3) on the upper floors; southern building comprising of 12 storeys (53.8m) with private residential units (Use Class C3) and with cinema, retail and restaurant uses (Use Classes D2/A1/A3) at podium level and basement car parking with associated storage facilities together with new landscaping to form part of a proposed market square.

At: CASTLE INDUSTRIAL ESTATE, ELEPHANT ROAD, LONDON, SE17 1LA

In accordance with application received on 15/08/2005

and Applicant's Drawing Nos. 001-100, 001-100-1, 001-100-2, 001-100-3, 001-100-4, 001-100-5, 001-100-6, 001-100-7, 001-100-8, 001-100-9, 001-100-10, 001-1051, 000-000 Rev 2, 000-001, 000-010 Rev 2, 001-101 Rev 2, 001-102 Rev 3, 001-103 Rev 3, 001-105 Rev 2, 001-106 Rev 3, 001-107 Rev 2, 001-108 Rev 2, 001-109 Rev 2, 001-140 Rev 2, 001-141 Rev 2, 001-142 Rev 2, 001-143 Rev 2, 001-144 Rev 2, 001-145 Rev 2, 001-146 Rev 2, 001-147 Rev 2, 001-160 Rev 4, 001-161 Rev 4, 001-162 Rev 4, 001-163 Rev 4, 001-164 Rev 4, 001-165 Rev 4, 001-166 Rev 3, 001-179 Rev 3, 001-180 Rev 3, 001-181 Rev 3, 001-182, Rev 4, 001-183 Rev 3, 001-184 Rev 4, 001-185 Rev 3, 001-186 Rev 3, 001-187 Rev 4, 001-188 Rev 4, 001-189 Rev 4, 001-190 Rev 3, 001-200 Rev 2, 001-201 Rev 2, 001-202 Rev 2, 001-203 Rev 2, 001-204 Rev 2, 001-205 Rev 2, 001-206 Rev 2, 001-207 Rev 2, 001-208 Rev 2, 001-250 Rev 2, 001-251 Rev 2, 001-252, Rev 2, 001-253 Rev 2, 001-260, 001-270, 001-300, 001-350 Rev 2, 001-360 Rev 2, C251-004, 002-100, 002-105, C251-005

Planning Statement, Flood Risk Assessment, Non Technical Summary, Transport Assessment, Design Statement, Scheme Drawings, Environmental Statement

Subject to the following conditions:

- 1 The development hereby permitted shall be begun before the end of three years from the date of this permission.

Reason:

As required by Section 91 of the Town and Country Planning Act 1990 as amended

Continued overleaf...

TP(Permit)

SOUTHWARK COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)



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PLANNING PERMISSION WITH LEGAL AGREEMENT

LBS Reg. No. 05-AP-1693 Case No. TP/1096-C Date of Issue of this decision

- 2 Samples of the all facing and roof materials to be used in the carrying out of this permission shall be submitted to and approved by the Local Planning Authority before any work in connection with this permission is carried out and the development shall not be carried out otherwise than in accordance with any such approval given.

Reason:

In order that the Local Planning Authority may be satisfied as to the detailed design in the interest of the appearance of the building in accordance with Policy E.2.3 'Aesthetic Control', of the Southwark Unitary Development Plan (July 1995) and Policy 3.11 'Quality in Design' and 3.13 'Urban Design' of the Southwark Plan (Final Draft) February 2005.

- 3 The refuse storage arrangements shown on the approved drawings shall be provided and available for use by the occupiers of the dwellings before those dwellings are occupied and the facilities provided shall thereafter be retained and shall not be used or the space used for any other purpose without the prior written consent of the Council as local planning authority.

Reason:

In order that the Council may be satisfied that the refuse will be appropriately stored within the site thereby protecting the amenity of the site and the area in general from litter, odour and potential vermin/pest nuisance in accordance with Policy E.3.1: Protection of Amenity and Policy T.1.3: Design of Development and Conformity with Council's Standards and Controls of Southwark's Unitary Development Plan.

- 4 The ancillary uses of restaurant/cafe/bar (A3 & A4) hereby permitted shall not be carried on outside of the hours 07:00 to 23:30 on Monday to Saturday or 07:00 to 22:00 on other days.

Reason:

In order to prevent the use causing an undue disturbance to occupants of neighbouring residential properties at unreasonable hours of the day, and to accord to Policy E.3.1: Protection of Amenity of Southwark's Unitary Development Plan and Policy 3.2 'Protection of Amenity' of the Southwark Plan (Final Draft) February 2005

- 5 The whole of the car parking shown on the drawings hereby approved, or approved subsequently in accordance with any condition of this permission, shall be made available, and retained for the purposes of car parking for vehicles of residential and business use as designated in terms of the submitted plans and no trade or business shall be carried on or there from.

Reason:

In order to ensure that the safety of pedestrians and vehicular traffic is safeguarded and to comply with Policy T.3.1 Safeguarding and improving the quality of Public Transport' of Southwark's Unitary Development Plan and Policy 5.7 Parking Standards for Disabled people and the Mobility Impaired of the Southwark Plan (Final Draft) February 2005

Continued overleaf...

TP(Permit)

SOUTHWARK COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)



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PLANNING PERMISSION WITH LEGAL AGREEMENT

LBS Reg. No. 05-AP-1693 Case No. TP/1096-C Date of Issue of this decision

- 6 Detailed drawings of a landscaping scheme and all wind mitigating features for all parts of the site(2 copies), including provision for the planting of suitable trees and shrubs, showing the treatment of all parts of the site not covered by buildings (including surfacing materials of any parking, access, or pathways) shall be submitted to and approved by the Council before the development hereby permitted is begun and the landscaping scheme approved shall thereafter be carried out in the first appropriate planting season following completion of the building works.

Reason:

In the interests of the amenity of the area and the future occupiers of the site in accordance with Policy E.2.5 'External Space' of the Unitary Development Plan 1995.

- 7 Any tree or shrub required to be planted as part of the Landscape Plan approved, either as part of this decision or arising from a condition imposed as part of this decision, that is found to be dead, dying, severely damaged or seriously diseased within two years of the completion of the building works OR two years of the carrying out of the Landscape Plan (whichever is later), shall be replaced by specimens of similar or appropriate size and species in the first suitable planting season.

Reason:

In the interests of the amenity of the area and the future occupiers of the site in accordance with Policy E.2.5 'External Space' of the Unitary Development Plan 1995.

- 8 Notwithstanding the drawings hereby approved details of the facilities to be provided for the secure storage of cycles and access to such storage shall be submitted to (2 copies) and approved by the local planning authority before the development hereby approved is commenced and the premises shall not be occupied until any such facilities as may have been approved have been provided. Thereafter the cycle parking facilities provided shall be retained and the space used for no other purpose without the prior written consent of the local planning authority, to whom an application must be made.

Reason:

To ensure that satisfactory safe and secure bicycle parking is provided and retained for the benefit of the users and occupiers of the building in order to encourage the use of alternative means of transport and to reduce reliance on the use of the private car in accordance with Policy E.3.1 'Protection of Amenity' and T.1.3 'Design in Conformity with Council Standards' of the Southwark Unitary Development Plan and Policy 5.3 'Walking and Cycling' of the Southwark Plan (Final Draft) February 2005

- 9 Details of any external lighting [including design, power and position of luminaires and security surveillance equipment of external areas surrounding the building shall be submitted to (2 copies) and approved by the Local Planning Authority before any such lighting or security equipment is installed and the development shall thereafter not be carried out otherwise than in accordance with any approval given.

Reason:

In order that the Council may be satisfied as to the details of the development in the interest of the visual amenity of the area, the safety and security of persons using the area and the amenity and privacy of adjoining occupiers in accordance with Policies E.1.1 'Safety and Security in the Environment' and E.3.1 'Protection of Amenity' of the Southwark Unitary Development Plan and Policy 3.2 'Protection of Amenity' of the Southwark Plan (Final Draft) February 2005

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TP(Permit)

SOUTHWARK COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)



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LBS Reg. No. 05-AP-1693 Case No. TP/1096-C Date of Issue of this decision

- 10 No roof plant, equipment or other structures, other than as shown on the plans hereby approved or approved pursuant to a condition of this permission, shall be placed on the roof or be permitted to project above the roofline of any part of the building[s] as shown on elevational drawings or shall be permitted to extend outside of the roof plant enclosure[s] of any building[s] hereby permitted without the prior written consent of the Local Planning Authority.

Reason:

In order to ensure that no additional plant etc. is placed on the roof of the building in the interest of the appearance and design of the building and the visual amenity of the area in accordance with Policies E.2.3 'Aesthetic Control' and E.3.1 'Protection of Amenity' of the Southwark Unitary Development Plan and Policies 3.2 'Protection of Amenity' and 3.11 'Quality in Design' of the Southwark Plan (Final Draft) February 2005

- 11 Before the use hereby permitted commences a Travel Plan shall be submitted in writing to the Local Planning Authority setting out the proposed measures to be taken to encourage the use of modes of transport other than the car by all users of the building, including staff and visitors, and shall include at the start of the second year of operation a detailed survey showing the methods of transport used by all those users of the building to and from the site and how this compares with the proposed measures and any additional measures to be taken to encourage the use of public transport, walking and cycling to the site.

Reason:

In order that the use of non-car based travel is encouraged in accordance with Strategic Policy SP18 'Sustainable Transport' and Policies 5.2 'Transport Impacts' and 5.3 'Walking and Cycling' of the The Southwark Plan [Revised Draft February 2005].

- 12 Surface water source control measures shall be carried out in accordance with details which shall be submitted to and approved in writing by the Local Planning Authority prior development commences

Reason:

To prevent the increased risk of flooding and to improve water quality and to ensure that the Local Planning Authority may be satisfied and to ensure the work will be in accordance with PPS25.

- 13 Before the development is commenced a detailed site investigation shall be carried out to establish if the site is contaminated, to assess the degree and nature of the contamination present and to determine its potential for the pollution of the water environment. The method and extent of this site investigation shall be agreed with the Planning authority prior to commencement of the work. Details of appropriate measures to prevent pollution of ground water and surface water, including provisions for monitoring, shall then be submitted to and approved in writing by the Planning Authority before development commences. The development shall then proceed in strict accordance with the measures approved.

Reason:

In order to protect construction employees and future occupiers of the site from potential health threatening substances in the soil in accordance with Policy E.1.1 'Safety and Security' in the Environment of the Southwark Unitary Development Plan.

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- 14 A validation report detailing any work carried out in compliance with the agreed remedial approach for the site shall be submitted to and approved in writing by the Planning Authority before any development commenced.

Reason:

To prevent the pollution of water environment. (Environment agency requested to be consulted on the any submissions to this condition.)

- 15 The construction of the surface water drainage system shall be carried out in accordance with details submitted to and approved in writing by the Planning Authority before development commences.

Reason:

To prevent the pollution of water environment and comply with Policy E.1.1 'Safety and Security' in the Environment of the Southwark Unitary Development Plan and 3.9 'Water' of the Southwark Plan (Final Draft) February 2005. (Environment agency requested to be consulted on the any submissions to this condition.)

- 16 Details of on site drainage works as well as a impact study on the existing infrastructure and water supply must be carried out and submitted to and approved by the Local Planning Authority in consultation with Thames Water prior to any development commencing on site. The studies should determine the magnitude of any new additional capacity required in the system and a suitable connection point

Reason: Increased flow from the development may lead to sewerage flooding and to ensure that sufficient capacity is made available to cope with the new development in order to avoid adverse impact upon the community and to prevent the pollution of water environment and comply with Policy E.1.1 'Safety and Security' in the Environment of the Southwark Unitary Development Plan. (Environment agency requested to be consulted on the any submissions to this condition.)

- 17 The machinery, plant or equipment installed or operated in connection with the carrying out of this permission shall be so enclosed and/or attenuated that noise therefrom does not, at any time, increase the ambient equivalent noise level when the plant, etc., is in use as measured at any adjoining or nearby premises in separate occupation; or (in the case of any adjoining or nearby residential premises) as measured outside those premises; or (in the case of residential premises in the same building) as measured in the residential unit.

Reason

In order to protect neighbouring occupiers from noise nuisance thereby protecting the amenity of neighbouring occupiers in accordance with Policy E.3.1: Protection of Amenity of Southwark's Unitary Development Plan, Policy 3.2 of the Southwark Plan (Final Draft) February 2005 and Planning Policy Guidance 24 Planning and Noise.

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- 18 The use hereby permitted shall not be begun until full particulars and details (2 copies) of a scheme for the ventilation of the premises to an appropriate outlet level, including details of sound attenuation for any necessary plant and the standard of dilution expected, has been submitted to and approved by the Local Planning Authority and the development shall not be carried out otherwise than in accordance with any approval given.

Reason

In order that the Council may be satisfied that the ventilation ducting and ancillary equipment will not result in an odour, fume or noise nuisance and will not detract from the appearance of the building in the interests of amenity in accordance with Policy E.3.1: Protection of Amenity and Policy S.1.6: Hot Food Outlets of Southwark's Unitary Development Plan, Policy 3.2 of the *Southwark Plan (Final Draft) February 2005* and Planning Policy Guidance 24 Planning and Noise.

- 19 Before the development hereby permitted commences, a Site and Servicing Management Plan shall be submitted in writing to the Local Planning Authority setting out the proposed management measures to be taken to facilitate the satisfactory servicing of the building with measures to control vehicular and pedestrian movement. The development shall not be carried out otherwise than in accordance with any approval given.

Reason:

In order that the Council may be satisfied that the servicing of the building will be carried out in a satisfactory manner in the interests of highway safety in accordance with Policy T.1.3 'Design of Development and Conformity with Council's Standards and Controls' of Southwark's Unitary Development Plan (1995) and Policy 3.10 'Efficient Use of Land' and Policy 3.13 'Urban Design' of the *Southwark Plan [Revised Draft] (2005)*.

- 20 Constructional drawings all three buildings at a scale of 1:50 (unless otherwise stated) of the items listed below shall be submitted to and approved in writing by the Council prior to the commencement of the development and the works shall be carried out in accordance with the approved details:

- a. All new entrances, fascia signs;
- b. 1:20 drawings of windows and recess details demonstrating the relationship of the window units with the fascia cladding;
- c. 1:20 drawings of vents and louvres, details of roof treatment, lighting, security cameras, and the underside of the soffit demonstrating its relationship with the facade, typical detail of metal panels including metal spandrels;
- d. 1:5 cross section details of glazing bars, mullions, windows, pillars, details of fascia signs, glass and metal balustrades;
- e. 1:50 elevational drawing of main entrances of ground floor (up to first floor level of each tower);
- f. Details of the soffit and colonnade of the west building (fronting Elephant Road);
- g. Details of the terraces and landscaping at a scale of 1:20 and 1:5 as appropriate, fully annotated to demonstrate materials, planting, lighting, and floodlighting, paving, seating, bollard's, and security cameras.
- h. Details, including sections and elevations of public art provision at a scale of 1:20 and 1:5 as appropriate.

Reason:

To ensure that the external appearance of the building is satisfactory and that it contributes to the character and appearance of the area.

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- 21 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, sample panels of all external materials to be used on each of the towers and terraces shall be erected on site and shall illustrate colour and texture before any work is commenced on site. This will include details of concrete and metal panels, framing, glazing and paving materials. The development shall be carried out using the approved materials.

Reason:

To ensure that the external appearance of the building is satisfactory and that it contributes to the character and appearance of the area.

- 22 The window glass of the shopfronts/retail units shall not be painted or otherwise obscured or obstructed.

Reason:

To safeguard the appearance and character of the street and to minimise visual intrusion in accordance with the policies set out in E.2.3 of the Adopted Unitary Development Plan 1995 and Policy 3.11 'Quality in Design' of the Draft Southwark Plan (February 2005).

- 23 A shopfront design strategy as well as a public realm strategy shall be submitted to and approved by the Council before any work is commenced on site.

Reason: To ensure that the external appearance of the buildings and the public realm is satisfactory and that it contributes to the character and appearance and amenity of the area and in order that the Local Planning Authority may be satisfied as to the detailed design in the interest of the appearance of the building in accordance with Policy E.2.3 'Aesthetic Control', of the Southwark Unitary Development Plan (July 1995) and Policy 3.11 'Quality in Design' and 3.13 'Urban Design' of the Southwark Plan (Final Draft) February 2005.

- 24 Details, of the following part(s) of the development including elevations and sections at a scale of 1:20 shall be submitted to and approved by the Council: ventilation ducts; public art; external cleaning equipment.

Reason: To ensure that the external appearance of the building is satisfactory and that it contributes to the character and appearance of the area and in order that the Local Planning Authority may be satisfied as to the detailed design in the interest of the appearance of the buildings are in accordance with Policy E.2.3 'Aesthetic Control', of the Southwark Unitary Development Plan (July 1995) and Policy 3.11 'Quality in Design' and 3.13 'Urban Design' of the Southwark Plan (Final Draft) February 2005.

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- 25 Detailed drawings of the means of access and egress for people with disabilities to all parts of the development hereby approved, including full details of threshold levels, shall be submitted to and approved by the local planning authority before any work is commenced on the development. The submission shall include, as appropriate, elevations, plans and cross-sections of the building at a scale of 1:50 and of all doors and handrails at a scale of 1:20. Provision in accordance with the details thus approved shall be made prior to the occupation of the development and shall thereafter be permanently retained to the satisfaction of the City Council as local planning authority.

Reason:

To make sure that there is reasonable access for people with disabilities and in order that the Local Planning Authority may be satisfied as to the detailed design of such access and also in the interest of the appearance of the buildings are in accordance with Policy E.2.3 'Aesthetic Control', of the Southwark Unitary Development Plan (July 1995) and Policy 3.11 'Quality in Design' and 3.13 'Urban Design' of the Southwark Plan (Final Draft) February 2005.

- 26 No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted (2 copies) by the applicant and approved by the Local Planning Authority.

Reason

In order that the archaeological operations are undertaken to an acceptable standard and that legitimate archaeological interest in the site is satisfied in accordance with Policies E..5 'Archeology' and E.5.1 'Archaeological Importance', of the Southwark Unitary Development Plan (July 1995) and Policy 3.19 'Archaeology' of the Southwark Plan (Final Draft) February 2005.

- 27 Details regarding the implementation of a wheel washing system for all vehicle entering and leaving the site shall be submitted to and approved by the Local Planning Authority in writing prior to any development commencing on site.

Reason:

In order to safeguard the environmental impact of the proposed works and development while construction is underway and to be in accordance with Objective E.3. 'Environmental Quality' of the Environment' and the Southwark Unitary Development Plan (July 1995) and Policy 3.1 'Environmental Effects' of the Southwark Plan (Final Draft) February 2005.

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Surface water source control

Reasons for granting planning permission.

This planning application was considered with regard to various policies including, but not exclusively:

- a) Policies R.2.1 'Regeneration Area', R.2.2 'Planning Agreements', E.1.1 'Safety and Security of the Environment', E.2.1 'Layout and Building Line', E.2.3 'Aesthetic Control', E.2.4 'Access and Facilities For People With Disabilities', E.3.1 'Protection of Amenity', E.3.4 'Upgrading the Environment', E.3.5 'Vacant Sites and Buildings', H.5.1 'New Visitor Accommodation', 5.1 'Sites of Archeological importance', B.1.2 'Protection Outside Employment Areas', B.2.1 'Employment area and Sites', S.3.3 'Shopfront Design', T.1.2 'Location of Development in Relation to the transport Network', T.1.3 'Design of Development and Conformity with Council Standards and Controls', T.6.2 'Off Street Parking', T.4.1 Measures for Cyclists: of the Southwark Unitary Development Plan 1995
- b) Policies 1.2 'Opportunity Area and Local Areas', 1.14 'Hotels and Visitor Accommodation', 2.5 'Planning Agreements', 3.1 'Environmental Effects', 3.2 'Protection of Amenity', 3.10 'Efficient Use of Land', 3.11 'Quality in Design', 3.12 'Design Statements', 3.13 'Urban Design', 3.14 'Designing Out Crime', 3.19 'Archeology', 5.1 'Locating Development', 5.2 'Transport Improvement', 5.3 'Walking and Cycling', 5.6 'Car Parking', 5.8 'Other Parking'.
of The Southwark Plan [Revised Draft] February 2005.
- c) Policies of the London Plan [February 2004].
- d) Planning Policy Guidance Notes 13.

Particular regard was had to the lack of affordable housing provision that would result from the proposed development but it was considered that this would be outweighed by the provision of costly enabling infrastructure for the future regeneration of the Elephant and Castle that would follow from the proposed development. It was therefore considered appropriate to grant planning permission having regard to the policies considered and other material planning considerations.

Signed

A handwritten signature in black ink, appearing to read 'Joe L Battye'.

Ms Joe Battye
Head of Development & Building Control

Your attention is drawn to the notes accompanying this document

Any correspondence regarding this document should quote the Case Number and LBS Registered Number and be addressed to: Head of Development and Building Control, Council Offices, Chiltern, Portland Street, London SE17 2ES. Tel. No. 020 7525 5000

checked by _____

UPRN: 200003498294

PLANNING PERMISSION WITH LEGAL AGREEMENT

LBS Registered Number: 05-AP-1693
Case Number: TP/1096-C
Date of issue of this decision:



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INFORMATIVE NOTES TO APPLICANT RELATING TO THE PROPOSED DEVELOPMENT

There are public sewers crossing the site, therefore no building will be permitted within 3 metres of sewers without Thames Water approval. Should you require a building over application form or other information relating the development work please contact Thames Water at 0845 850 2777

- 1 The use of vibro-compaction machinery or driven piles in the vicinity of operational railway structures must be agreed with Network Rail prior to commencement of development.
- 2 All operations, including the use of cranes or other mechanical plant working adjacent to the operational railway, must at all times be carried out in a fail safe manner such that in the event of mishandling, collapse or failure, no material or plant are capable of falling within 3m of the nearest rail of the adjacent railway line, or where electrified, within 3m of overhead electrical equipment or supports.
- 3 The use of tower and mobile cranes close to the railway will require the approval of Network Rail's Outside Parties Engineer. Under no circumstances will any load be allowed to oversail Network Rail land, however tower crane jibs may be allowed to oversail and weathervane, subject to the Engineers approval. Full details of any tower cranes should include a plan showing the relevant jib radii.
- 4 Any demolition or refurbishment works must not be carried out on the development site that may endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures. In particular the demolition of buildings or other structures should be carried out in accordance with an agreed method statement. Care must be taken to ensure that no debris or other materials can fall onto Network Rail's land. Approval must be obtained from Network Rail's Outside Parties Engineer.
- 5 Any scaffold which is to be constructed adjacent to the railway must be erected in such a manner that at no time will any poles over-sail or fall onto the railway. All plant and scaffolding must be positioned, that in the event of failure, it will not fall on to Network Rail land. It is also important to ensure that the pedestrian footpath remains open during construction and is not blocked or obstructed. It is unclear how the development will be constructed without encroachment onto the footpath. The scaffolding will pose a significant security threat to the railway as the existing steel palisade fence could be breached by abutting scaffolding.
- 6 The use of tower and mobile cranes close to the railway will require the approval of Network Rail's Outside Parties Engineer. Under no circumstances will any load be allowed to oversail Network Rail land, however tower crane jibs may be allowed to oversail and weathervane, subject to the Engineers approval. Full details of any tower cranes should include a plan showing the relevant jib radii.
- 7 The use of vibro-compaction machinery or driven piles in the vicinity of operational railway structures must be agreed with Network Rail prior to commencement of development.
- 8 All operations, including the use of cranes or other mechanical plant working adjacent to the operational railway, must at all times be carried out in a fail safe manner such that in the event of mishandling, collapse or failure, no material or plant are capable of falling within 3m of the nearest rail of the adjacent railway line, or where electrified, within 3m of overhead electrical equipment or supports.
- 9 Network Rail will need to be consulted on any alterations to ground levels. It should be noted that Network Rail

are concerned about excavations within 10m of the boundary with the operational railway and will need to be assured that the construction of foundations and footings will not impact on the stability of the railway.

- 10 Additional or increased flows of surface water must not be discharged onto Network Rail land nor into Network Rail's culverts or drains. In the interests of long term stability of the railway, soakaways should not be constructed within 10m of the boundary with the operational railway.
- 11 The development must inform Network Rail's Outside Parties Engineer, in writing, 8 weeks prior to commencement of site works.

PLANNING PERMISSION WITH LEGAL AGREEMENT

LBS Registered Number: 05-AP-1693
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IMPORTANT NOTES RELATING TO THE COUNCIL'S DECISION

[1] **APPEAL TO THE SECRETARY OF STATE.** If you are aggrieved by this decision of the council as the local planning authority to grant permission subject to conditions you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990. If you appeal you must do so within six months of the date of this notice. The Secretary of State can allow a longer period for giving notice of an appeal but will not normally use this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it seems that the local planning authority could not have granted it without the conditions imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order. If you do decide to appeal you can do so using The Planning Inspectorate's online appeals service. You can find the service through the appeals area of the Planning Portal at www.planningportal.gov.uk/pcs. You can also appeal by completing the appropriate form which you can get from The Planning Inspectorate, Customer Support Unit, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN [tel. 0117-3726372]. The form can also be downloaded from the Inspectorate's website at www.planning-inspectorate.gov.uk. The Planning Inspectorate will publish details of your appeal on the internet on the appeals area of the Planning Portal. This may include a copy of the original planning application form and relevant supporting documents supplied to the council by you or your agent, together with the completed appeal form and information you submit to The Planning Inspectorate. Please ensure that you only provide information, including personal information belonging to you, that you are happy will be made available to others in this way. If you supply information belonging to someone else please ensure you have their permission to do so. More detailed information about data protection and privacy matters is available on the Planning Portal.

[2] **PURCHASE NOTICE.** If either the local planning authority or the Secretary of State grants permission subject to conditions, the owner may claim that the land can neither be put to a reasonably beneficial use in its existing state nor made capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted. In these circumstances the owner may serve a purchase notice on the Council requiring the Council to purchase the owner's interest in the land in accordance with Part VI of the Town and Country Planning Act 1990.

[3] **PROVISIONS FOR THE BENEFIT OF THE DISABLED.** Applicants are reminded that account needs to be taken of the statutory requirements of the Disability Discrimination Act 1995 to provide access and facilities for disabled people where planning permission is granted for any development which provides:

- (i) Buildings or premises to which the public are to be admitted whether on payment or otherwise. [Part III of the Act].
- (ii) Premises in which people are employed to work as covered by the Health and Safety etc At Work Act 1974 and the Management of Health and Safety at Work Regulations as amended 1999. [Part II of the Act].
- (iii) Premises to be used as a university, university college or college, school or hall of a university, or intended as an institution under the terms of the Further and Higher Education Act 1992. [Part IV of the Act].

Attention is also drawn to British Standard 8300:2001 Disability Access, Access for disabled people to schools buildings – a management and design guide. Building Bulletin 91 (DfEE 99) and Approved Document M (Access to and use of buildings) of the Building Regulations 2000 or any such prescribed replacement.

[4] **OTHER APPROVALS REQUIRED PRIOR TO THE IMPLEMENTATION OF PLANNING PERMISSION.** The granting of planning permission does not relieve the developer of the necessity for complying with any Local Acts, regulations, building by-laws and general statutory provisions in force in the area, or allow them to modify or affect any personal or restrictive covenants, easements, etc., applying to or affecting either the land to which the permission relates or any other land or the rights of any persons or authorities (including the London Borough of Southwark) entitled to the benefits thereof or holding an interest in the property concerned in the development permitted or in any adjoining property.

[5] **WORKS AFFECTING THE PUBLIC HIGHWAY.** You are advised to consult the council's Highway Maintenance section [tel. 020-7525-2000] about any proposed works to, above or under any road, footway or forecourt.

[6] **THE DULWICH ESTATE SCHEME OF MANAGEMENT.** Development of sites within the area covered by the Scheme of Management may also require the permission of the Dulwich Estate. If your property is in the Dulwich area with a post code of SE19, 21, 22, 24 or 26 you are advised to consult the Estates Governors', The Old College, Gallery Road SE21 7AE [tel: 020-8299-1000].

[7] **BUILDING REGULATIONS.** You are advised to consult Southwark Building Control at the earliest possible moment to ascertain whether your proposal will require consent under the Building Act 1984 [as amended], Building Regulations 2000 [as amended], the London Building Acts or other statutes. A Building Control officer will advise as to the submission of any necessary applications, [tel. call centre number 0845 600 1285].

[8] **THE PARTY WALL Etc. ACT 1996.** You are advised that you must notify all affected neighbours of work to an existing wall or floor/ceiling shared with another property, a new building on a boundary with neighbouring property or excavation near a neighbouring building. An explanatory booklet aimed mainly at householders and small businesses can be obtained from the

Department for Communities and Local Government [DCLG] Free Literature tel: 0870 1226 236 [quoting product code 02BR00862].

IMPORTANT: This is a PLANNING PERMISSION only and does not operate so as to grant any lease, tenancy or right of occupation of or entry to the land to which it refers.

TP(Permit)

SOUTHWARK COUNCIL

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PLANNING PERMISSION WITH LEGAL AGREEMENT

Applicant Eadon Estates
Date of Issue of this decision

LBS Registered Number 05-AP-1694
Case Number TP/1096-C

Planning Permission was GRANTED for the following development:
Provision of market square and basement service area. (Also see 05 - AP - 1693)

At: land bounded by Elephant Road, Castle Industrial Estate, Deacon Way and open space fronting Walworth Road

In accordance with application received on 15/08/2005

and Applicant's Drawing Nos. 002-105 Rev1, 002-100 Rev1, C251-005.

Subject to the following twenty-three conditions:

- 1 The development hereby permitted shall be begun before the end of three years from the date of this permission.

Reason

As required by Section 91 of the Town and Country Planning Act 1990 as amended

- 2 Before the development is commenced a detailed site investigation shall be carried out to establish if the site is contaminated, to assess the degree and nature of the contamination present and to determine its potential for the pollution of the water environment. The method and extent of this site investigation shall be agreed with the Planning authority prior to commencement of the work. Details of appropriate measures to prevent pollution of ground water and surface water, including provisions for monitoring, shall then be submitted to and approved in writing by the Planning Authority before development commences. The development shall then proceed in strict accordance with the measures approved.

Reason: To prevent the pollution of water environment

- 3 A validation report detailing any work carried out in compliance with the agreed remedial approach for the site shall be submitted to and approved in writing by the Planning Authority before any development commenced.

Reason: To prevent the pollution of water environment. (Environment agency requested to be consulted on the any submissions to this condition.)

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- 4 The construction of the surface water drainage system shall be carried out in accordance with details submitted to and approved in writing by the Planning Authority before development commences.

Reason: To prevent the pollution of water environment.(Environment agency requested to be consulted on the any submissions to this condition.)

- 5 Constructional drawings a scale of 1:50 (unless otherwise stated) of the items listed below shall be submitted to and approved in writing by the Council prior to the commencement of the development and the works shall be carried out in accordance with the approved details:

- a. Details of the terraces and landscaping at a scale of 1:20 and 1:5 as appropriate, fully annotated to demonstrate materials, planting, lighting, and floodlighting, paving, seating, bollards, and security cameras.
- b. Details, including sections and elevations of public art provision at a scale of 1:20 and 1:5 as appropriate.

Reason: To ensure that the external appearance of the building is satisfactory and that it contributes to the character and appearance of the area.

- 6 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, sample panels of all external materials to be used shall be erected on site and shall illustrate colour and texture before any work is commenced on site. This will include details of concrete and metal panels, framing, glazing and paving materials. The development shall be carried out using the approved materials.

Reason: To ensure that the external appearance of the market square is satisfactory and that it contributes to the character and appearance of the area and in order that the Local Planning Authority may be satisfied as to the detailed design of the market square is in accordance with Policy E.2.3 'Aesthetic Control', of the Southwark Unitary Development Plan (July 1995) and Policy 3.11 'Quality in Design' and 3.13 'Urban Design' of the Southwark Plan (Final Draft) February 2005.

- 7 The Market square use hereby permitted shall not be carried on outside of the hours 06:00 to 17:00 on Monday to Saturdays and no other days.

Reason:

In order to prevent the use causing an undue disturbance to occupants of neighbouring residential properties at unreasonable hours of the day, and to accord to Policy E.3.1: Protection of Amenity of Southwark's Unitary Development Plan and Policy 3.2 'Protection of Amenity' of the Southwark Plan (Final Draft) February 2005

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- 8 Notwithstanding the plans hereby approved, the use hereby permitted shall not be commenced before details of the arrangements for the storing of refuse have been submitted to (2 copies) and approved by the Local Planning Authority and the facilities approved have been provided and are available for use by the occupiers and users of the premises. The facilities shall thereafter be retained for refuse storage and the space used for no other purpose without the prior written consent of the Council as local planning authority.

Reason

In order that the Council may be satisfied that suitable facilities for the storage of refuse will be provided and retained in the interest of protecting the amenity of the site and the area in general from litter, odour and potential vermin/pest nuisance in accordance with Policy E.3.1: Protection of Amenity and Policy T.1.3: Design of Development and Conformity with Council's Standards and Controls of Southwark's Unitary Development Plan.

- 9 Detailed drawings of a landscaping scheme (2 copies), including provision for the planting of suitable trees and shrubs, showing the treatment of all parts of the site not covered by buildings (including surfacing materials of any parking, access, or pathways) shall be submitted to and approved by the Council before the development hereby permitted is begun and the landscaping scheme approved shall thereafter be carried out in the first appropriate planting season following completion of the building works.

Reason

In the interests of the amenity of the area and the future occupiers of the site in accordance with Policy E.2.5 'External Space' of the Unitary Development Plan 1995.

- 10 Any tree or shrub required to be planted as part of the Landscape Plan approved, either as part of this decision or arising from a condition imposed as part of this decision, that is found to be dead, dying, severely damaged or seriously diseased within two years of the completion of the building works OR two years of the carrying out of the Landscape Plan (whichever is later), shall be replaced by specimens of similar or appropriate size and species in the first suitable planting season.

Reason

In the interests of the amenity of the area and the future occupiers of the site in accordance with Policy E.2.5 'External Space' of the Unitary Development Plan 1995.

- 11 Notwithstanding the plans hereby approved details relating to cycle storage facilities on site for the market square shall be submitted to and approved by the Local Planning Authority in writing prior to development commencing on site.

Reason

To ensure that satisfactory safe and secure bicycle parking is provided and retained for the benefit of the users and occupiers of the building in order to encourage the use of alternative means of transport and to reduce reliance on the use of the private car in accordance with Policy E.3.1 'Protection of Amenity' and T.1.3 'Design in Conformity with Council Standards' of the Southwark Unitary Development Plan.

Continued overleaf...

TP(Permit)

SOUTHWARK COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)



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- 12 Notwithstanding the details hereby approved details of all vehicular movement, servicing and parking arrangement to and from the market square, which must take into account the day one scenario and the future scenario of the market square, shall be submitted to and approved by the Local Planning Authority in writing prior to any development commencing on site.

Reason: In or

- 13 Notwithstanding the details hereby approved a detailed site -, service - and market management plan, shall be submitted to and approved by the Local Planning Authority in writing prior to any development commencing on site.

Reason: In order to ensure that all operation relating to the servicing and general operations of the market square is carried out in a manner to comply .

- 14 No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted (2 copies) by the applicant and approved by the Local Planning Authority.

Reason

In order that the archaeological operations are undertaken to an acceptable standard and that legitimate archaeological interest in the site is satisfied in accordance with Policies E..5 'Archeology' and E.5.1 'Archaeological Importance', of the Southwark Unitary Development Plan (July 1995) and Policy 3.19 'Archaeology' of the Southwark Plan (Final Draft) February 2005.

- 15 A construction and environmental management plan shall be submitted to and approved by the Local Planning Authority in writing prior to any development comencing on site and shall be implemented as approved.

Reason

In order to safeguard the environmental impact of the proposed works and development and to be in accordance with Objective E.3. 'Environmental Quality' of the Environment' and the Southwark Unitary Development Plan (July 1995) and Policy 3.1 'Environmental Effects' of the Southwark Plan (Final Draft) February 2005.

Continued overleaf...

TP(Permit)

SOUTHWARK COUNCIL

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- 16 Details regarding the implementation of a wheel washing system for all vehicle entering and leaving the site shall be submitted to and approved by the Local Planning Authority in writing prior to any development commencing on site.

Reason:

In order to safeguard the environmental impact of the proposed works and development while construction is underway and to be in accordance with Objective E.3. 'Environmental Quality' of the Environment' and the Southwark Unitary Development Plan (July 1995) and Policy 3.1 'Environmental Effects' of the Southwark Plan (Final Draft) February 2005.

- 17 Details regarding the design and the provision of market stalls, the servicing of these market stalls and location of storage outside operating hours, shall be submitted to and approved by the Local Planning Authority in writing prior to any development commencing on site.

Reason:

In the interest of maintaining a quality design and character for the area as well as the provision of

- 18 Surface water source control measures shall be carried out in accordance with details which shall be submitted to and approved in writing by the Local Planning Authority prior development commences

Reason:

To prevent the increased risk of flooding and to improve water quality and to ensure that the Local Planning Authority may be satisfied and to ensure the work will be in accordance with PPS25.

- 19 Before the development is commenced a detailed site investigation shall be carried out to establish if the site is contaminated, to assess the degree and nature of the contamination present and to determine its potential for the pollution of the water environment. The method and extent of this site investigation shall be agreed with the Planning authority prior to commencement of the work. Details of appropriate measures to prevent pollution of ground water and surface water, including provisions for monitoring, shall then be submitted to and approved in writing by the Planning Authority before development commences. The development shall then proceed in strict accordance with the measures approved.

Reason:

In order to protect construction employees and future occupiers of the site from potential health threatening substances in the soil in accordance with Policy E.1.1 'Safety and Security' in the Environment of the Southwark Unitary Development Plan.

Continued overleaf...

TP(Permit)

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- 21 A validation report detailing any work carried out in compliance with the agreed remedial approach for the site shall be submitted to and approved in writing by the Planning Authority before any development commenced.

Reason:

To prevent the pollution of water environment. (Environment agency requested to be consulted on the any submissions to this condition.)

- 22 A validation report detailing any work carried out in compliance with the agreed remedial approach for the site shall be submitted to and approved in writing by the Planning Authority before any development commenced.

Reason:

To prevent the pollution of water environment. (Environment agency requested to be consulted on the any submissions to this condition.)

- 23 The use hereby permitted shall not be begun until full particulars and details (2 copies) of a scheme for the ventilation of the premises to an appropriate outlet level, including details of sound attenuation for any necessary plant and the standard of dilution expected, has been submitted to and approved by the Local Planning Authority and the development shall not be carried out otherwise than in accordance with any approval given.

Reason

In order to that the Council may be satisfied that the ventilation ducting and ancillary equipment will not result in an odour, fume or noise nuisance and will not detract from the appearance of the building in the interests of amenity in accordance with Policy E.3.1: Protection of Amenity and Policy S.1.6: Hot Food Outlets of Southwark's Unitary Development Plan, Policy 3.2 of the *Southwark Plan (Final Draft) February 2005* and Planning Policy Guidance 24 Planning and Noise.

Reasons for granting planning permission.

This planning application was considered with regard to various policies including, but not exclusively:

- a) Policies R.2.1 'Regeneration Area', R.2.2 'Planning Agreements', E.1.1 'Safety and Security of the Environment', E.2.1 'Layout and Building Line', E.2.3 'Aesthetic Control', E.2.4 'Access and Facilities For People With Disabilities', E.3.1 'Protection of Amenity', E.3.4 'Upgrading the Environment', E.3.5 'Vacant Sites and Buildings', H.5.1 'New Visitor Accommodation', 5.1 'Sites of Archeological importance', B.1.2 'Protection Outside Employment Areas', B.2.1 'Employment area and Sites', S.3.3 'Shopfront Design', T.1.2 'Location of Development in Relation to the transport Network', T.1.3 'Design of Development and Conformity with Council Standards and Controls', T.6.2 'Off Street Parking', T.4.1 Measures for Cyclists: of the Southwark Unitary Development Plan 1995
- b) Policies 1.2 'Opportunity Area and Local Areas', 1.14 'Hotels and Visitor Accommodation', 2.5 'Planning Agreements', 3.1 'Environmental Effects', 3.2 'Protection of Amenity', 3.10 'Efficient Use of Land', 3.11 'Quality in Design', 3.12 'Design Statements', 3.13 'Urban Design', 3.14 'Designing Out Crime', 3.19 'Archeology', 5.1 'Locating Development', 5.2 'Transport Improvement', 5.3 'Walking and Cycling', 5.6 'Car Parking', 5.8 'Other Parking'.
of The Southwark Plan [Revised Draft] February 2005.
- c) Policies of the London Plan [February 2004].
- d) Planning Policy Guidance Notes 13.

Planning permission was granted as there are no, or insufficient, grounds to withhold consent on the basis of the policies considered and other material planning considerations.

Signed



Ms Joe Battye
Head of Development & Building Control

Your attention is drawn to the notes accompanying this document

Any correspondence regarding this document should quote the Case Number and LBS Registered Number and be addressed to: Head of Development and Building Control, Council Offices, Chiltern, Portland Street, London SE17 2ES. Tel. No. 020 7525 5000

UPRN:

checked by _____

PLANNING PERMISSION WITH LEGAL AGREEMENT

LBS Registered Number: 05-AP-1694
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INFORMATIVE NOTES TO APPLICANT RELATING TO THE PROPOSED DEVELOPMENT

- 1 The use of vibro-compaction machinery or driven piles in the vicinity of operational railway structures must be agreed with Network Rail prior to commencement of development.
- 2 All operations, including the use of cranes or other mechanical plant working adjacent to the operational railway, must at all times be carried out in a fail safe manner such that in the event of mishandling, collapse or failure, no material or plant are capable of falling within 3m of the nearest rail of the adjacent railway line, or where electrified, within 3m of overhead electrical equipment or supports.
- 3 The use of tower and mobile cranes close to the railway will require the approval of Network Rail's Outside Parties Engineer. Under no circumstances will any load be allowed to oversail Network Rail land, however tower crane jibs may be allowed to oversail and weathervane, subject to the Engineers approval. Full details of any tower cranes should include a plan showing the relevant jib radii.
- 4 Any demolition or refurbishment works must not be carried out on the development site that may endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures. In particular the demolition of buildings or other structures should be carried out in accordance with an agreed method statement. Care must be taken to ensure that no debris or other materials can fall onto Network Rail's land. Approval must be obtained from Network Rail's Outside Parties Engineer.
- 5 The use of tower and mobile cranes close to the railway will require the approval of Network Rail's Outside Parties Engineer. Under no circumstances will any load be allowed to oversail Network Rail land, however tower crane jibs may be allowed to oversail and weathervane, subject to the Engineers approval. Full details of any tower cranes should include a plan showing the relevant jib radii.
- 6 The use of vibro-compaction machinery or driven piles in the vicinity of operational railway structures must be agreed with Network Rail prior to commencement of development.
- 7 All operations, including the use of cranes or other mechanical plant working adjacent to the operational railway, must at all times be carried out in a fail safe manner such that in the event of mishandling, collapse or failure, no material or plant are capable of falling within 3m of the nearest rail of the adjacent railway line, or where electrified, within 3m of overhead electrical equipment or supports.
- 8 Network Rail will need to be consulted on any alterations to ground levels. It should be noted that Network Rail are concerned about excavations within 10m of the boundary with the operational railway and will need to be assured that the construction of foundations and footings will not impact on the stability of the railway.
- 9 Additional or increased flows of surface water must not be discharged onto Network Rail land nor into Network Rail's culverts or drains. In the interests of long term stability of the railway, soakaways should not be constructed within 10m of the boundary with the operational railway.
- 10 The development must inform Network Rail's Outside Parties Engineer, in writing, 8 weeks prior to commencement of site works.

PLANNING PERMISSION WITH LEGAL AGREEMENT

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IMPORTANT NOTES RELATING TO THE COUNCIL'S DECISION

- [1] **APPEAL TO THE SECRETARY OF STATE.** If you are aggrieved by this decision of the council as the local planning authority to grant permission subject to conditions you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990. If you appeal you must do so within six months of the date of this notice. The Secretary of State can allow a longer period for giving notice of an appeal but will not normally use this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it seems that the local planning authority could not have granted it without the conditions imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order. If you do decide to appeal you can do so using The Planning Inspectorate's online appeals service. You can find the service through the appeals area of the Planning Portal at www.planningportal.gov.uk/pcs. You can also appeal by completing the appropriate form which you can get from The Planning Inspectorate, Customer Support Unit, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN [tel. 0117-3726372]. The form can also be downloaded from the Inspectorate's website at www.planning-inspectorate.gov.uk. The Planning Inspectorate will publish details of your appeal on the internet on the appeals area of the Planning Portal. This may include a copy of the original planning application form and relevant supporting documents supplied to the council by you or your agent, together with the completed appeal form and information you submit to The Planning Inspectorate. Please ensure that you only provide information, including personal information belonging to you, that you are happy will be made available to others in this way. If you supply information belonging to someone else please ensure you have their permission to do so. More detailed information about data protection and privacy matters is available on the Planning Portal.
- [2] **PURCHASE NOTICE.** If either the local planning authority or the Secretary of State grants permission subject to conditions, the owner may claim that the land can neither be put to a reasonably beneficial use in its existing state nor made capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted. In these circumstances the owner may serve a purchase notice on the Council requiring the Council to purchase the owner's interest in the land in accordance with Part VI of the Town and Country Planning Act 1990.
- [3] **PROVISIONS FOR THE BENEFIT OF THE DISABLED.** Applicants are reminded that account needs to be taken of the statutory requirements of the Disability Discrimination Act 1995 to provide access and facilities for disabled people where planning permission is granted for any development which provides:

 - (i) Buildings or premises to which the public are to be admitted whether on payment or otherwise. [Part III of the Act].
 - (ii) Premises in which people are employed to work as covered by the Health and Safety etc At Work Act 1974 and the Management of Health and Safety at Work Regulations as amended 1999. [Part II of the Act].
 - (iii) Premises to be used as a university, university college or college, school or hall of a university, or intended as an institution under the terms of the Further and Higher Education Act 1992. [Part IV of the Act].

Attention is also drawn to British Standard 8300:2001 Disability Access, Access for disabled people to schools buildings – a management and design guide. Building Bulletin 91 (DfEE 99) and Approved Document M (Access to and use of buildings) of the Building Regulations 2000 or any such prescribed replacement.
- [4] **OTHER APPROVALS REQUIRED PRIOR TO THE IMPLEMENTATION OF PLANNING PERMISSION.** The granting of planning permission does not relieve the developer of the necessity for complying with any Local Acts, regulations, building by-laws and general statutory provisions in force in the area, or allow them to modify or affect any personal or restrictive covenants, easements, etc., applying to or affecting either the land to which the permission relates or any other land or the rights of any persons or authorities (including the London Borough of Southwark) entitled to the benefits thereof or holding an interest in the property concerned in the development permitted or in any adjoining property.
- [5] **WORKS AFFECTING THE PUBLIC HIGHWAY.** You are advised to consult the council's Highway Maintenance section [tel. 020-7525-2000] about any proposed works to, above or under any road, footway or forecourt.
- [6] **THE DULWICH ESTATE SCHEME OF MANAGEMENT.** Development of sites within the area covered by the Scheme of Management may also require the permission of the Dulwich Estate. If your property is in the Dulwich area with a post code of SE19, 21, 22, 24 or 26 you are advised to consult the Estates Governors', The Old College, Gallery Road SE21 7AE [tel: 020-8299-1000].
- [7] **BUILDING REGULATIONS.** You are advised to consult Southwark Building Control at the earliest possible moment to ascertain whether your proposal will require consent under the Building Act 1984 [as amended], Building Regulations 2000 [as amended], the London Building Acts or other statutes. A Building Control officer will advise as to the submission of any necessary applications, [tel. call centre number 0845 600 1285].
- [8] **THE PARTY WALL Etc. ACT 1996.** You are advised that you must notify all affected neighbours of work to an existing wall or floor/ceiling shared with another property, a new building on a boundary with neighbouring property or excavation near a neighbouring building. An explanatory booklet aimed mainly at householders and small businesses can be obtained from the

Department for Communities and Local Government [DCLG] Free Literature tel: 0870 1226 236 [quoting product code 02BR00862].

IMPORTANT: This is a PLANNING PERMISSION only and does not operate so as to grant any lease, tenancy or right of occupation of or entry to the land to which it refers.

SCHEDULE 4

Site Plans

A - Site Ownership

B - Affordable Business Space and Local Employment

C - Affordable Housing Units

D - Tram Safeguarding Area

E - Market Square Land and Basement Area

F - Proposed Access to the Heygate Estate

G - Elephant & Castle Regeneration Area

SCHEDULE 5

Heads of Terms for Works Agreements

50 New Kent Road, SE1

**HEADS OF TERMS FOR "WORKS AGREEMENTS"
(Subject to Contract)**

This document sets out the main terms of a transaction between London Borough of Southwark (the Council) and Eadon Estates Limited (the Developer). The document will not create any contractual obligation between the parties.

1. Introduction

The Council wishes to: assemble a freehold interest in the proposed Market Square adjacent to 50 New Kent Road; facilitate the construction of a basement area which is sufficient for the provision of servicing to the proposed Elephant & Castle commercial areas and other commercial areas on adjacent land as required by the Council; procure a Market Square and create a store area sufficient for the purposes of servicing the Market Square traders. Any arrangements to form a works compound during the construction process and any over-sailing arrangements are to be the subject of separate arrangements.

2. Freehold Transfer

The Developer will transfer its freehold interest to the Council sufficient to meet the Council's requirements for the provision of a Market Square, as shown on Plan 1.

Developer: Eadon Estates Limited.

Purchaser: London Borough of Southwark.

Property: All that property coloured blue on attached Plan 1.

Consideration: Nil.

Completion: Prior to the date of Implementation (as defined in the 106 agreement) of the development.

Costs: Developer to pay all reasonable costs.

3. Agreement for Works and to Lease and to grant an Easement

Parties: The Council and the Developer

Subject Area: All that area coloured pink on the attached Plan 2.

Council obligations:

- To permit the Developer access to construct the basement, market store and Market Square to the agreed specification and in accordance with the S106 agreement in relation to planning applications no. 05/AP/1693 and 05/AP/1694. Specification to be supplied by the Developer for the Council's agreement prior to Implementation.

Developer obligations:

- Prior to commencement of works, to pay to the Council the £30,000 payable by the Developer by way of the agreed contribution for the relocation of the playground under the terms of the S106 Agreement.
- To construct the basement, the market store and Market Square at its own cost to the agreed specification and within the agreed time limits.
- To commence construction of the basement, market store and Market Square at the time of Implementation (as defined in the Section 106 agreement) of the development.
- Completion of the development is to be within 36 months of commencement subject to the extensions (including archeology ground conditions and services) to deal with unforeseen occurrences outside of the Developer's control.
- To indemnify the Council against any direct or indirect losses suffered by the Developer and any third party arising as a result of this agreement.
- The Head Lease of the Basement Area is to be granted and the Deed of Easement is to be entered into simultaneously upon practical completion of the development.

Costs: Developer to pay all reasonable costs.

4 Head Lease of Basement Area

Landlord: The London Borough of Southwark (the Council)

Tenant: The Developer.

Term: 250 years

Demise: All those premises at basement level coloured pink on Plan 3, to include to all structural parts and the external surface of the basement, but excluding the Market Square surface to a depth of **300mm** (structure) (and for the avoidance of doubt excluding the internal, non-

structural parts of the market store area shown uncoloured on Plan 3).

Rights granted: The Council is to grant rights to the Developer:

- 1 a right of escape in the event of fire or emergency over the Market Square and surrounding land owned by the Council via the staircase and lifts;
- 2 rights of shelter and protection;
- 3 rights to connect into the service media in the Council's adjoining property.

Rights reserved:

- 1 The right for the Council and others authorised by the Council to enter that part of the demise shown coloured yellow on Plan 4 ("the Yellow Land") at all times with all requisite equipment for the purpose of constructing servicing linkages for the proposed Elephant and Castle commercial areas or to such other adjoining land specified by the Council (and to carry out requisite ancillary works thereto) and to service the proposed Elephant & Castle commercial areas or such other developments constructed in due course on adjoining land.
- 2 The right for the Council along with the Developer on a non-exclusive basis to use the four lorry parking bays shown hatched red on Plan 4 provided that in the event of any conflict between the use of the four lorry parking bays by the Developer and the non-exclusive right reserved for the Council to use the four lorry bays the Council shall have priority.
- 3 The right for the Council and those authorised by the Council at its own cost to extend basements (via tunnels if necessary) other than beneath the development and/or link such basements or tunnels into the Yellow Land.
- 4 The right for the Council and others authorised by the Council over the Yellow Land to access the basement store shown coloured pink on Plan 4 at all times. Interference to the Developer's occupation not to be unreasonably affected.

- 5 The right in common with the Developer and those authorised by it to use the loading dock shown coloured blue on Plan 4.
- 6 The right for the Council, at its own cost, to extend the loading dock shown coloured blue on Plan 4 and to move the lorry parking bays shown hatched blue on Plan 4 to a position in the basement and in a manner approved by the Developer such approval not to be unreasonably withheld or delayed provided that it will not be reasonable for the Developer to withhold approval unless such position ensures that the Developer has exclusive use of two lorry parking bays of at least the same size as the lorry parking bays shown hatched blue on Plan 4 and provided the lorry parking bays are no less proximate to the loading dock and the Developer's service corridors and the Developer is otherwise able to use the loading dock and service corridors and spaces and to service the development no less conveniently provided that whilst any such works are being carried out by the Council the Council shall use all reasonable endeavours to ensure that there is minimal interference with the Developer's use and enjoyment over the demised premises and no interference with the Developer's use of the lorry parking bays shown hatched blue on Plan 4 (or the replacement bays identified hereunder) and of the loading dock, that the access to and egress from the lorry bays and the loading dock is uninterrupted and maintained at all times.

and
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Following completion of the works of relocating the two lorry parking bays or extending the loading dock if it is necessary a deed of variation of the Head Lease will be entered into between the Council and the Developer to reflect the revised rights granted to the Council.

- 7 In the event of redevelopment of the whole or any part of the site by the Developer the Developer shall be entitled to vary the rights reserved to the Council under the Head Lease in a manner approved by the Council such approval not to be unreasonably withheld or

delayed provided that the proposed variations in the opinion of the Council are no less convenient than those hereby granted and that there is no interruption to access or other of the Council's reserved rights whatsoever.

- 8 The right for the Council to move the market store shown coloured pink on Plan 4 to a reasonable alternative location, such location to be approved by the Developer such approval not to be unreasonably withheld or delayed provided that it will not be reasonable for the Developer to withhold approval if the market store will be in no less convenient a location than previously.

When exercising its rights reserved under the Head Lease the Council will take all reasonable steps to minimize the interference to the Developer's use of the demised premises and will not at any time prevent the Developer and those parties authorised by it having access to and egress from the two lorry parking bays shown hatched blue on Plan 4 or to the loading dock servicing the development shown coloured blue on Plan 4 or block the access from the loading dock or lorry parking bays to the Developer's service corridors and spaces.

The rights reserved to the Council over the Yellow Land shall not include rights through or over those parts of the Yellow Land that contain structural columns.

Rent: Peppercorn.

Repairs: The Developer to be responsible for repairing and renewing the demise.

Freeholder's contribution: The Developer will be entitled to charge to the Council a proportion of the cost of the maintenance, management repair and renewal of the demised area and the easement access and egress area to the Council.

The proportion will be fair and reasonable and will have regard to the frequency and volume of usage and will be determined by an independent surveyor in the event of a dispute. This in turn could be transferred to the

owner or the occupiers of the adjoining proposed shopping centre.

- Use: Servicing, and such other use as shall be approved by the Council (such approval not to be unreasonably withheld or delayed) and provided that the Council's reserved rights are not affected by any change of use.
- Insurance: The Developer to insure against all commercial risks (the Council reimbursing the Developer a fair and reasonable proportion of the cost).
- Alienation: Assignment of the whole only, subject to a simultaneous sale of the whole or any part (such part to comprise the whole of the land shown coloured green on Plans 4 and 5) of the Developer's adjoining freehold.
- Alterations: No alterations without the consent of the Landlord (not to be unreasonably withheld or delayed).
- Rights to redevelop: The Developer should have rights to the subsequent redevelopment of the basement leased area subject to a suitable alternative service access and egress being temporarily or permanently provided for the benefit of the reserved rights that in the opinion of the Council are no less convenient than those hereby granted and that there is no interruption to access or other reserved rights whatsoever.
- Costs: Developer to pay all reasonable costs.
- Other terms: The Council to maintain the surface of the Market Square and keep the Market Square wind and water tight (and the right of entry for the Developer to carry out these works and recover the costs from the Council in default).

The Developer shall submit a Servicing Management Plan (the initial heads of terms of which are attached hereto) to the Council for its approval (not to be unreasonably withheld or delayed). Any variations to the Servicing Management Plan will require the approval of the Council (not to be unreasonably withheld or delayed). [Need to also attach Heads of Terms for Servicing Management Plan]

5. Deed of Easement

Grantor: The Developer.

Grantee: The London Borough of Southwark (the Council).

Easement Land: All those premises shown coloured green on Plans 4 and 5.

Terms of Easement: The Grantor is to grant to the Grantee and others authorized by the Grantee an easement over the road access and ramp coloured green on Plans 4 and 5 for all purposes, and at all times from the public highway to the Yellow Land and the area shown coloured pink on Plan 4.

Once granted, the Grantee shall exercise the easement in accordance with the Servicing Management Plan approved by the Council (such approval not to be unreasonably withheld or delayed) provided that the Council pays to the Developer a fair and reasonable proportion (based on frequency and volume of usage to be determined by an independent surveyor in the event of disagreement) of the cost of maintaining and repairing and renewing such road access and ramp. In the event of any conflict between the Grantor and the Grantee in relation to the use of the Easement Land for access to and egress from the four lorry parking bays shown hatched red on Plan 4 only the Grantee shall have priority provided that the Grantee will take all reasonable steps to minimise interference to the Grantor's use of the Easement Land and will not prevent access and egress at any time by the Developer and parties authorised by the Developer to the demised premises.

Rights to develop: The Grantor will have the ability in the event of redevelopment to both temporarily or permanently alter the extent of the Easement Land to a reasonable alternative extent or location such extent or location to be approved by the Grantee (such approval not to be unreasonably withheld or delayed provided that it will not be reasonable for the Grantee to withhold approval if the rights of the Grantee and others authorised by it to access the basement are not materially affected that in the opinion of the Council are no less convenient than those hereby granted and that there is no interruption to access or other reserved rights whatsoever.

6. **Lease of Market Square**

Landlord: The London Borough of Southwark.

Tenant: Elephant Road (Operations) Limited.

Term: 7 years to be outside the security of tenure provisions of the Landlord & Tenant Act 1954.

If the Tenant's lease is not renewed on expiry the Tenant will receive 25% of the rental income received by the Council for 99 years. If a premium is received in lieu of or in addition to annual rental then 25% of such capital sum shall be payable to the Tenant.

All sales and leases by the Landlord must be at arms length with full details of the marketing program being disclosed to the Tenant.

Demise: All those premises as delineated on the attached plans (Plans 6 and 7), **to include to a depth of 300mm** and the market store (at basement level).

Rent: For the first five years of the term, 25% of the net profit and in the last two years of the term 50% of net profits. Any losses from any of the previous years (not limited) to be credited against any profits. The profits will be calculated on the basis of receipts less agreed cost deductions.

Rights Granted: 1. Rights to run services and connect in to services in the Landlord's adjoining land.
2. Rights of support.

Rights Reserved: 1. A right of escape in the event of fire or emergency from the basement via the staircase and lifts and over the Market Square.
2. The right for the Council to move the basement store shown coloured pink on Plan 4 to a reasonable alternative location, such location to be approved by the Tenant (such approval not to be unreasonably withheld or delayed provided that it will not be reasonable for the Developer to withhold approval if the market store will be in no less convenient a location than previously) and in so doing the Council will take all reasonable

steps to minimise disruption to the use of the basement by the Developer, its tenants and parties authorised by the Developer and will not prevent access and egress at all times by the Developer to the premises demised to the Developer under the Head Lease.

**Resurfacing of
Market Square:**

If the Council determines that as part of a larger area to be resurfaced by the Council and in order that the surfacing treatment is consistent in level with materials to no less a standard than the Developer's approved finish, the Council shall also resurface the Market Square area provided the Council takes all reasonable steps to minimise or disrupt the Market use and that the extent of the Market trading area remains similar at all times (allowing as necessary a temporary location of the market onto part of the Council's adjoining land during the phasing of the works).

Repairs:

The Tenant to be responsible for repairing and renewing the demise.

Use:

Commercial Market and ancillary accommodation only and external music and performance space.

Alienation:

No disposal permitted other than the individual pitch licences. Assignment or underletting of the whole subject to proof of bona fide market operating company.

Alterations:

No alterations permitted without approval such approval not to unreasonably withheld or delayed.

Insurance:

The Tenant is to insure the demise against public liability.

Costs:

Tenant to pay all reasonable costs.

Signed on behalf of the Council

Date

Signed on behalf of the Developer

Date

Proposed Mixed Use Development, Elephant Road

Subject: Servicing Management Plan

Introduction

1. This note sets out the basis of the Servicing Management Plan that will be provided at the proposed mixed use development by Eadon Estates at Elephant Road, London (plan to identify site)
2. Planning permission has been granted to the development and this Servicing Management Plan is necessary to fulfil the relevant Planning Condition prior to occupation of the building. In addition, it is a requirement on Eadon Estates, for the benefit of the Reserved rights contained in the lease of the basement to be granted by the Council.
3. The content of the final Servicing Management Plan will be agreed with the London Borough of Southwark and JMP Consultants, who are responsible for overseeing the Elephant & Castle area regeneration. The London Borough of Southwark to have ultimate priority reference the four lorry bays cross hatched red on Plan 4 and rights of access and egress via the basement to adjoining land specified by the Council, subject to Eadon Estate's exclusive use of 2 No. lorry bays hatched blue on Plan 4 not being impeded, in accordance with the proposed lease.

Objectives

4. The Servicing Management Plan will manage deliveries and servicing to the premises in order to:
 - Minimise service vehicle conflicts
 - Ensure that the safeguarded route through the servicing yard (in the event of connecting service tunnels for delivery vehicles being constructed) into the proposed Elephant & Castle redevelopment (and any other adjacent site so authorised by the Council) will be kept clear at all times
 - Ensure that 4 No. lorry servicing bays are available for the benefit of the Council's Reserved Rights under the proposed lease, in the event that only shuttle tunnels are constructed.

- Ensure that 2 No. lorry servicing bays are available for the exclusive use of Eadon Estates, its tenants and authorised parties.

The Servicing arrangement

5. The servicing area is located in the basement of the building and is accessed from New Kent Road as shown coloured yellow on Plan 4 in **Appendix A**.
6. The servicing yard of the development will include:
 - 3 servicing bays to accommodate 16.5m length articulated vehicles
 - 3 servicing bays to accommodate 10m rigid vehicles

Note: 1 No. of the 16.5m length and 1 No. 10m length will remain for the exclusive use of Eadon, its tenants and authorised parties.

7. **Table 1** shows the predicted number of deliveries by light, medium and heavy goods vehicles for each of the elements of the building.
8. Overall, the total number of servicing movements equates to 60 per day. Typically, the average duration of stay would be less than ten minutes, with a small number for longer periods.

Initiatives of the Plan

9. A 'Goods In Manager' will be employed to oversee the operations of the service yard area and to ensure its smooth operation. The Council will with reasonable notice and justification have the ability to replace and employ the "Goods In Manager" directly if so required.
10. In order to meet the objectives of the Servicing Management Plan, the following initiatives will be adopted:
 - The Goods In Manager will issue written/email instructions to all suppliers who book deliveries setting out the delivery procedures to be adopted by them.
 - Suppliers will be required to pre-book 30 minute delivery slots including details of the type of vehicle that will be used to undertake the delivery and the scale/nature of goods

to be supplied. (Although the majority of deliveries would only take 5-10 minutes to undertake, the 30 minute slots would allow for the vagaries of London traffic etc.)

- Suppliers will be discouraged from scheduling deliveries during peak periods, although in practice it may not be feasible to restrict HGV movements to/from the site during peak periods. Therefore, it is proposed to limit the number of deliveries to be undertaken by HGVs to a maximum of 1 in each 30 minute slot between 07.30 – 09.30 and 16.00 – 18.00.
- Vehicles will not be permitted to enter the basement area unless authorised to do so by the Goods In Manager. Delivery drivers will advise the Goods In Manager of their impending arrival by telephoning him/her approximately 10-15 minutes before their arrival.
- The Goods In Manager will make sure that only three of the four bays over which the Council will have priority in the situation where only shuttle tunnels are constructed, will be booked at any one time and a single bay will be left unoccupied to ensure that, in the worst case, if deliveries overlap, the service route to the proposed Elephant & Castle redevelopment and any other adjacent site authorised by the Council to the rear of the bays will not be obstructed.
- Drivers will not be permitted to leave vehicles unattended in the basement.
- Drivers will be informed that vehicle engines must be switched off whilst goods are being loaded/unloaded (i.e. when their vehicle is stationary).
- The Goods In Manager will ensure that a storage area is provided for goods in order to maintain the service bay area free from obstruction. Tenants will be aware of the delivery schedule and will be responsible for ensuring that goods are transferred from the storage area to the relevant units as soon as possible. The Goods In Manager will be responsible for the smooth and efficient operation of this element of the "plan".
- Two bays will be reserved within the basement car parking area to accommodate cars and/or small vans associated with longer term servicing activity (e.g. window cleaners, BT engineers etc).

Monitoring and Review of the Plan

11. The Goods In Manager will maintain a record of servicing activity, which will include the following information:

- Day
- Date
- Delivery Slot(s) booked by whom and for whom
- Type of vehicle
- Goods carried
- Time of arrival
- Time of departure
- Any other comments

The Council shall have the ability to inspect such records on demand and at any time.

12. The Goods In Manager will constantly monitor/review the success of the Service Management Plan and, if considered necessary/appropriate, will propose changes to the Service Management Plan to be approved by the Property Department of the London Borough of Southwark (LBS).
13. The Service Management Plan will be the subject of a regular review (six months after first occupation and annually thereafter) with the Property Dept of the LBS. Additionally, if considered necessary or appropriate by the Property Dept. of the LBS (e.g. as a result of the effects of other developments coming on stream), further reviews will be held within **[to be agreed in due course]** days of a written request by the Property Dept of the LBS. .

Conclusion

14. Overall, the Servicing Management Plan will ensure that either a clear path will be available through to the adjacent proposed E&C redevelopment (and other adjacent land authorities by the Council) site at all times, or that service bays are available in relation to the above, in the event that only shuttle tunnels are constructed. It will also ensure that the likelihood of conflicts with pedestrians will be minimised and that the servicing of the development will not effect the free flow of traffic on New Kent Road.

SCHEDULE 6

Basement Works - Exclusions from "Shell and Core" Completion
(paragraph 2.2 of Schedule 1)

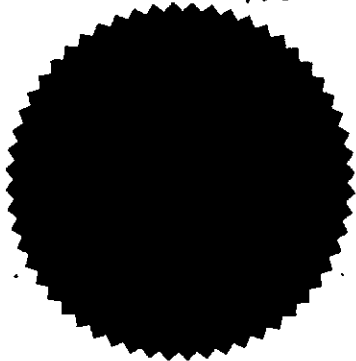
50 New Kent Road

Schedule of Basement Fit-Out Works

1. Lighting, emergency lighting and small power
2. Smoke extract / ventilation systems
3. Secure entrance / barrier system
4. CCTV system
5. Guard rails, Armco car parking barriers and the like
6. Doors
7. Waterproof/weatherproof asphalt or other surface over concrete base and / or painted surface to car and lorry parking bays / line markings
8. Signage
9. Cycle racks
10. Construction of Market Square storage area and lift installation between storage area and Market Square

IN WITNESS WHEREOF the parties hereto have executed this Deed the day and year first before written

9783^(b)



The Common Seal of **THE MAYOR AND
BURGESSES OF THE LONDON
BOROUGH OF SOUTHWARK** was hereto
affixed in the presence of:

Authorised Signatory

Executed as a Deed by **EADON ESTATES
LIMITED** acting by:

Director

Director / ~~Secretary~~

Signed and delivered as a deed for and on
behalf of **NATIONAL WESTMINSTER
BANK PLC** by a duly authorised attorney
in the presence of:

Witness Signature - Bank Employee

~~SCHEDULE 6~~

BLP

Basement Works - Exclusions from "Shell and Core" Completion
(paragraph 2.2 of Schedule 1)

THIS IS AN IMPORTANT DOCUMENT. YOU SHOULD TAKE INDEPENDENT LEGAL ADVICE BEFORE SIGNING AND SIGN ONLY IF YOU WANT TO BE LEGALLY BOUND. IF YOU SIGN AND THE BANK IS NOT PAID YOU MAY LOSE THE ASSET(S) CHARGED. IN THE CASE OF REGISTERED LAND THIS DOCUMENT AND ANY PRIORITY AGREEMENT WITH ANY OTHER LENDER WILL BE PUBLIC DOCUMENTS.

Date: 21 September 2006

Definitions

Mortgagor: Eadon Estates Limited a company registered in the Isle of Man (IOM Company No. IOM 113846C) whose registered office is at 9 Myrtle Street Douglas Isle of Man

Bank: National Westminster Bank Plc

Interest: Interest at the rate(s) charged to the Mortgagor by the Bank from time to time

Property: Administrative Area : Greater London; London Borough of Southwark

Description : Elephant Road Industrial Estate, 1 to 7 (odd) Elephant Road, London

Tenure : Freehold (title absolute)

Title Number : SGL500495

Charged Assets: The assets charged by Clause 1.2

Goodwill: The present and future goodwill of any business carried on at the Property by or on behalf of the Mortgagor

Mortgagor's Obligations: All the Mortgagor's liabilities to the Bank of any kind and in any currency (whether present or future actual or contingent and whether incurred alone or jointly with another) together with the Bank's charges and commission Interest and Expenses

Expenses: All expenses (on a full indemnity basis) incurred by the Bank or any Receiver at any time in connection with the Property the Charged Assets the Goodwill or the Mortgagor's Obligations or in taking or perfecting this deed or in preserving defending or enforcing the security created by this deed or in exercising any power under this deed or otherwise with Interest from the date they are incurred

Required Currency: The currency or currencies in which the Mortgagor's Obligations are expressed from time to time

Address for Service: Nyman Libson Paul, Regina House, 124 Finchley Road, London NW3 5JS (for the attention of Richard Wallace)

Charge

- 1 The Mortgagor covenants to discharge on demand the Mortgagor's Obligations and as a continuing security for such discharge and with full title guarantee charges to the Bank:-
 - 1.1 By way of legal mortgage of all legal interests and otherwise by way of fixed charge the Property (to the full extent of the Mortgagor's interest in the Property or its proceeds of sale)
 - 1.2 By way of fixed charge if the Mortgagor is a company:-
 - 1.2.1 All the fixtures and fittings of the Mortgagor from time to time attached to the Property

56244226.2

**CERTIFIED A TRUE COPY
OF THE ORIGINAL**

DATED 15 November 2006

SIGNED *May Brown Rowe & Maw LLP*

Mayer, Brown, Rowe & Maw LLP

- 1.2.2 All the plant and machinery vehicles and computer equipment of the Mortgagor present and future at the Property not regularly disposed of in the ordinary course of business and all associated warranties and maintenance contracts
- 1.2.3 All furniture furnishings equipment tools and other chattels of the Mortgagor now and in the future at the Property and not regularly disposed of in the ordinary course of business
- 1.3 By way of fixed charge the Goodwill all rents receivable from any lease granted out of the Property and the proceeds of any insurance from time to time affecting the Property or the Charged Assets

Repair Alteration and Insurance

- 2.1 The Mortgagor will keep the Property and the Charged Assets in good condition and comprehensively insured to the Bank's reasonable satisfaction for their full reinstatement cost and the Bank may enter and inspect and in default effect repairs or insure the Property and the Charged Assets (without becoming liable to account as mortgagee in possession). The Mortgagor will deposit with the Bank the insurance policy or where the Bank agrees a copy of it
- 2.2 The Mortgagor will not without the prior written consent of the Bank make any alteration to the Property which would require Planning Permission or approval under any Building Regulations
- 2.3 The Mortgagor will hold in trust for the Bank all money received under any insurance of the Property or the Charged Assets and at the Bank's option will apply the same in making good the relevant loss or damage or in or towards discharge of the Mortgagor's Obligations

Restrictions on Charging Leasing Disposing and Parting with possession

- 3.1 The Mortgagor will not without the Bank's prior written consent:-
 - 3.1.1 Create or permit to arise any mortgage charge or lien on the Property the Charged Assets or the Goodwill
 - 3.1.2 Grant or accept a surrender of any lease or licence of the Property the Charged Assets or the Goodwill
 - 3.1.3 Dispose of or part with or share possession or occupation of the Property the Charged Assets or the Goodwill
- 3.2 If the Bank does consent to the creation of a mortgage or charge on the Property it may require a priority agreement or deed with the mortgagee or chargee. In the case of Registered Land this will require registration and will be a public document
- 3.3 The Mortgagor applies and agrees that the Bank may apply for a restriction to be entered on the Register of any Registered Land that no disposition of the Registered estate by the proprietor(s) of the Registered estate or by the proprietor(s) of any Registered charge is to be registered without a written consent signed by the proprietor for the time being of the charge created by this deed in favour of the Bank referred to in the Charges Register

Powers of the Bank

- 4.1 The Bank may without restriction grant or accept surrenders of leases of the Property and the Charged Assets
- 4.2 Section 103 of the Law of Property Act 1925 shall not apply and the Bank may exercise its power of sale and other powers under that or any other Act or this deed at any time after the date of this deed
- 4.3 The Bank may under the hand of any official or manager or by deed appoint or remove a Receiver or Receivers of the Property the Charged Assets and the Goodwill and may fix and pay the fees of a Receiver but any Receiver shall be deemed to be the agent of the Mortgagor and the Mortgagor shall be solely responsible for the Receiver's acts defaults and remuneration
- 4.4 All or any of the powers conferred on a Receiver by Clause 5 may be exercised by the Bank without first appointing a Receiver or notwithstanding any appointment
- 4.5 The Bank will not be liable to account to the Mortgagor as mortgagee in possession for any money not actually received by the Bank
- 4.6 Section 93(1) of the Law of Property Act 1925 shall not apply to this deed

- 4.7 In addition to any lien or right to which the Bank may be entitled by law the Bank may from time to time without notice and both before and after demand set off the whole or any part of the Mortgagor's Obligations against any deposit or credit balance on any account of the Mortgagor with the Bank (whether or not that deposit or balance is due to the Mortgagor)
- 4.8 Despite any term to the contrary in relation to any deposit or credit balance on any account of the Mortgagor with the Bank that deposit or balance will not be capable of being assigned dealt with mortgaged or charged and will not be repayable to the Mortgagor before all the Mortgagor's Obligations have been discharged but the Bank may without prejudice to this deed permit the Mortgagor to make withdrawals from time to time
- 4.9 The Bank may exchange or convert to the Required Currency any currency held or received

Receivers

- 5.1 Any Receiver appointed by the Bank shall (in addition to all powers conferred upon him by law) have the following powers which in the case of Joint Receivers may be exercised jointly or severally:-
- 5.1.1 To take possession of and generally manage the Property and the Charged Assets and any business carried on at the Property
- 5.1.2 To carry out on the Property any new works or complete any unfinished works of building reconstruction maintenance furnishing or equipment
- 5.1.3 To purchase or acquire any land or other property and purchase acquire grant or release any interest in or right over land or the benefit of any covenants (positive or restrictive) affecting land
- 5.1.4 To sell lease surrender or accept surrenders of leases charge or otherwise deal with and dispose of the Property the Charged Assets and the Goodwill without restriction including (without limitation) power to dispose of any fixtures separately from the Property
- 5.1.5 To carry into effect and complete any transaction by executing deeds or documents in the name of or on behalf of the Mortgagor
- 5.1.6 To take continue or defend any proceedings and enter into any arrangement or compromise
- 5.1.7 To insure the Property and the Charged Assets and any works and effect indemnity insurance or other similar insurance and obtain bonds and give indemnities and security to any bondsmen
- 5.1.8 To employ advisers consultants managers agents workmen and others and purchase or acquire materials tools equipment goods or supplies
- 5.1.9 To borrow any money and secure the payment of any money in priority to the Mortgagor's Obligations for the purpose of the exercise of any of his powers
- 5.1.10 To do any other acts which the Receiver may consider to be incidental or conducive to any of his powers or to the realisation of the Property the Charged Assets and the Goodwill
- 5.2 If the Mortgagor is not a company the Mortgagor grants to such Receiver an irrevocable licence and power to use in connection with any business carried on at the Property all property of the Mortgagor at the Property when the Receiver is appointed and to remove store sell and/or dispose of any such property. The Receiver will account to the Bank for the proceeds of any sale of such property after deducting all costs and expenses incurred in the sale and that amount shall be a debt due from the Bank to the Mortgagor
- 5.3 A Receiver shall apply all money he receives first in repayment of all money borrowed by him and his expenses and liabilities and in payment of his fees and secondly towards the remaining matters specified in Section 109(8) of the Law of Property Act 1925

Power of Attorney

- 6 The Mortgagor irrevocably appoints the Bank and any Receiver severally to be the Attorney of the Mortgagor (with full power of substitution and delegation) in the Mortgagor's name and on the Mortgagor's behalf and as the Mortgagor's act and deed to sign or execute all deeds instruments and documents or take continue or defend any proceedings which may be required by the Bank or any Receiver pursuant to this deed or the exercise of any of their powers

Appropriation

- 7.1 **Subject to Clause.7.2** the Bank may appropriate all payments received for the account of the Mortgagor in reduction of any part of the Mortgagor's Obligations as the Bank decides
- 7.2 **The Bank** may open a new account or accounts upon the Bank receiving actual or constructive notice of any charge or interest affecting the Property the Charged Assets or the Goodwill. Whether or not the Bank opens any such account no payment received by the Bank after receiving such notice shall (if followed by any payment out of or debit to the relevant account) be appropriated towards or have the effect of discharging any part of the Mortgagor's Obligations outstanding at the time of receiving such notice

Preservation of other Security and Rights and Further Assurance

- 8.1 **This deed** is in addition to any other security present or future held by the Bank for the Mortgagor's Obligations and shall not merge with or prejudice such other security or any contractual or legal rights of the Bank
- 8.2 **The Mortgagor** will at the Mortgagor's own cost at the Bank's request execute any deed or document and take any action required by the Bank to perfect this security or further to secure the Mortgagor's Obligations on the Property the Charged Assets and the Goodwill

Mortgagor's Constitution and Powers

- 9 **If the Mortgagor is a company** the Mortgagor warrants to the Bank that:-
- 9.1 **The Mortgagor** is a corporation duly constituted and in good standing under the law of the country in which it is incorporated and the Mortgagor has appropriate power and authority to own its property and assets and carry on its business as now conducted
- 9.2 **The Mortgagor** has appropriate power to enter into and perform the terms and conditions of this deed and has taken all necessary action to authorise the execution delivery and performance of this deed
- 9.3 **No permit licence approval or authorisation** of any government judicial or other authority or other third party is required or desirable in connection with the execution performance validity or enforceability of this deed
- 9.4 **The Mortgagor** will on demand obtain or pay to the Bank the cost incurred by the Bank in obtaining at any time a written opinion from a legal firm acceptable to the Bank confirming Clauses 9.1, 9.2 and 9.3 of this deed and any other matters relevant to this deed as the Bank may require

Governing Law and Jurisdiction

- 10.1 **This deed** shall be governed by and construed in accordance with English law
- 10.2 **For the benefit of the Bank** the Mortgagor irrevocably submits to the jurisdiction of the English Courts and the Mortgagor irrevocably agrees that a judgment in any proceedings in connection with this deed by the English Courts shall be conclusive and binding upon the Mortgagor and may be enforced against the Mortgagor in the Courts of any other jurisdiction. The Bank shall also be entitled to take proceedings in connection with this deed against the Mortgagor in the Courts of any country in which the Mortgagor has assets or in any other Courts of competent jurisdiction
- 10.3 **The Mortgagor** irrevocably waives:-
- 10.3.1 **Any objection** which the Mortgagor may now or in the future have to the English Courts or other Courts referred to in Clause 10.2 as a venue for any proceedings in connection with this deed and
- 10.3.2 **Any claim** which the Mortgagor may now or in the future be able to make that any proceedings in the English Courts or other Courts referred to in Clause 10.2 have been instituted in an inappropriate forum
- 10.4 **The Address for Service** (or such other address in England or Wales as the Mortgagor may from time to time nominate in writing to the Bank for the purpose) shall be an effective address for service of any notice or proceedings in the English Courts to or against the Mortgagor

Notices

- 11.1 Any notice or demand by the Bank may be sent by post or fax or delivered to the Mortgagor at the Mortgagor's address last known to the Bank or the address stated in Clause 10.4 or if the Mortgagor is a company may be served personally on any director or the secretary of the Mortgagor
- 11.2 A notice or demand by the Bank by post shall be deemed served on the day after posting
- 11.3 A notice or demand by the Bank by fax shall be deemed served at the time of sending

Interpretation

- 12.1 The expressions "Mortgagor" and "Bank" where the context admits include their respective successors in title and assigns
- 12.2 If two or more persons are included in the expression "Mortgagor" then the use in this deed of the word "Mortgagor" shall be deemed to refer to such persons both together and separately and the Mortgagor's Obligations shall be their joint and several obligations and each of them shall be primarily liable by way of indemnity for the liabilities to the Bank of the other or others of them
- 12.3 References to the "Property" and the "Charged Assets" include any part of it or them and the "Property" includes all covenants and rights affecting or concerning the same. The "Property" also includes any share from time to time held by the Mortgagor in any landlord or management company of the Property
- 12.4 Interest will be calculated both before and after demand or judgment on a daily basis and compounded according to agreement or in the absence of agreement monthly on such days as the Bank may select
- 12.5 Each of the provisions of this deed shall be severable and distinct from one another and if one or more of such provisions is invalid or unenforceable the remaining provisions shall not in any way be affected

In Witness of which this deed has been duly executed

usam
up
EXECUTED as a deed by
~~The Common Seal of the Mortgagor~~
~~was affixed in the presence of:-~~
acting by two directors:

Director

Director

Secretary

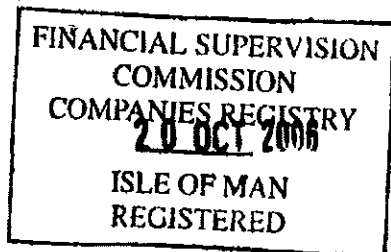
National Westminster Bank Plc releases to the within named Mortgagor all the Property the Charged Assets and the Goodwill comprised in the within written document

For and on behalf of National Westminster Bank Plc

Duly Authorised Official

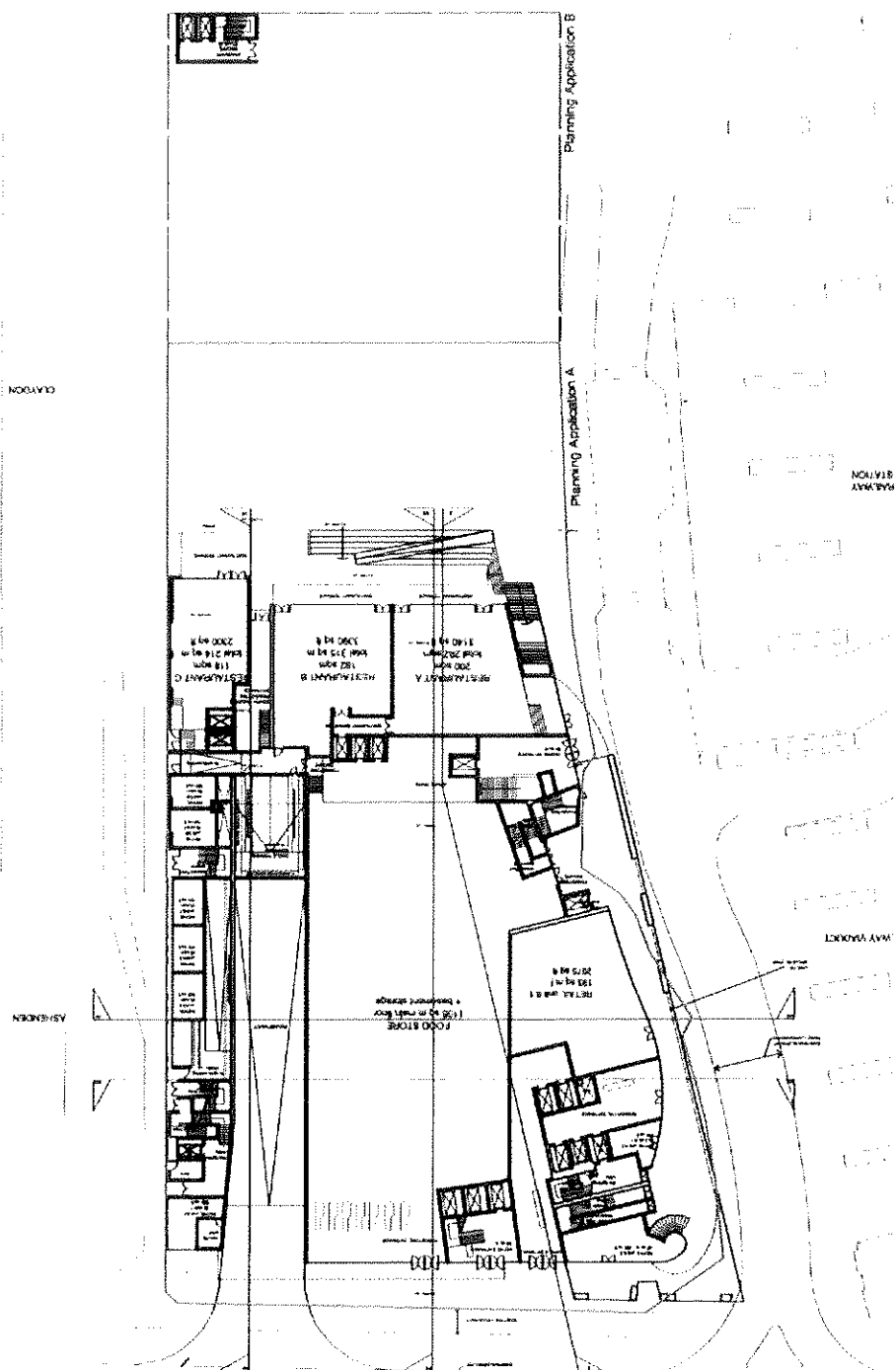
Dated _____

Bank ref:



[Handwritten signature]

FINANCIAL SUPERVISION COMMISSION
COMPANIES REGISTRY
ISLE OF MAN



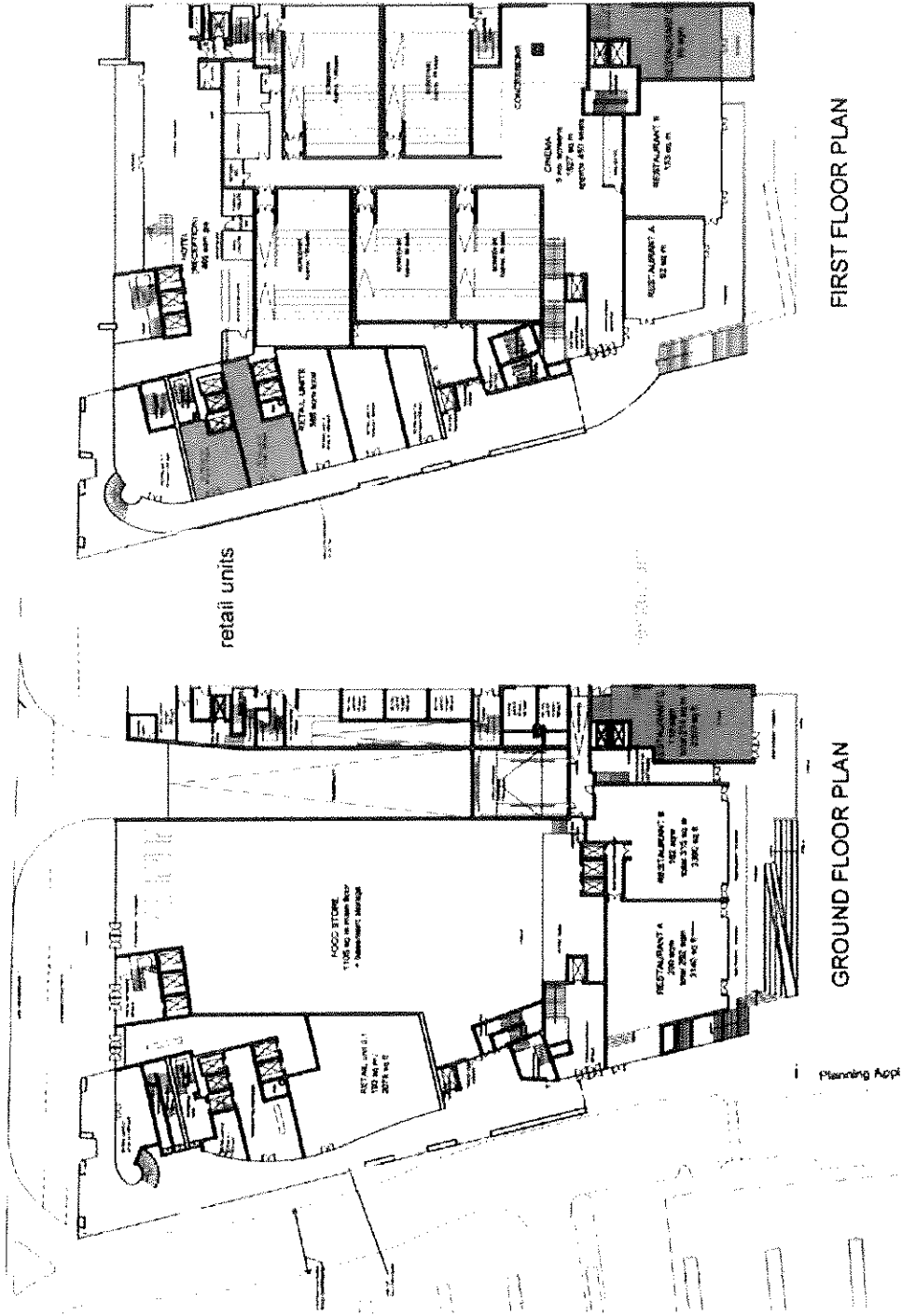
Site ownership PLAN A

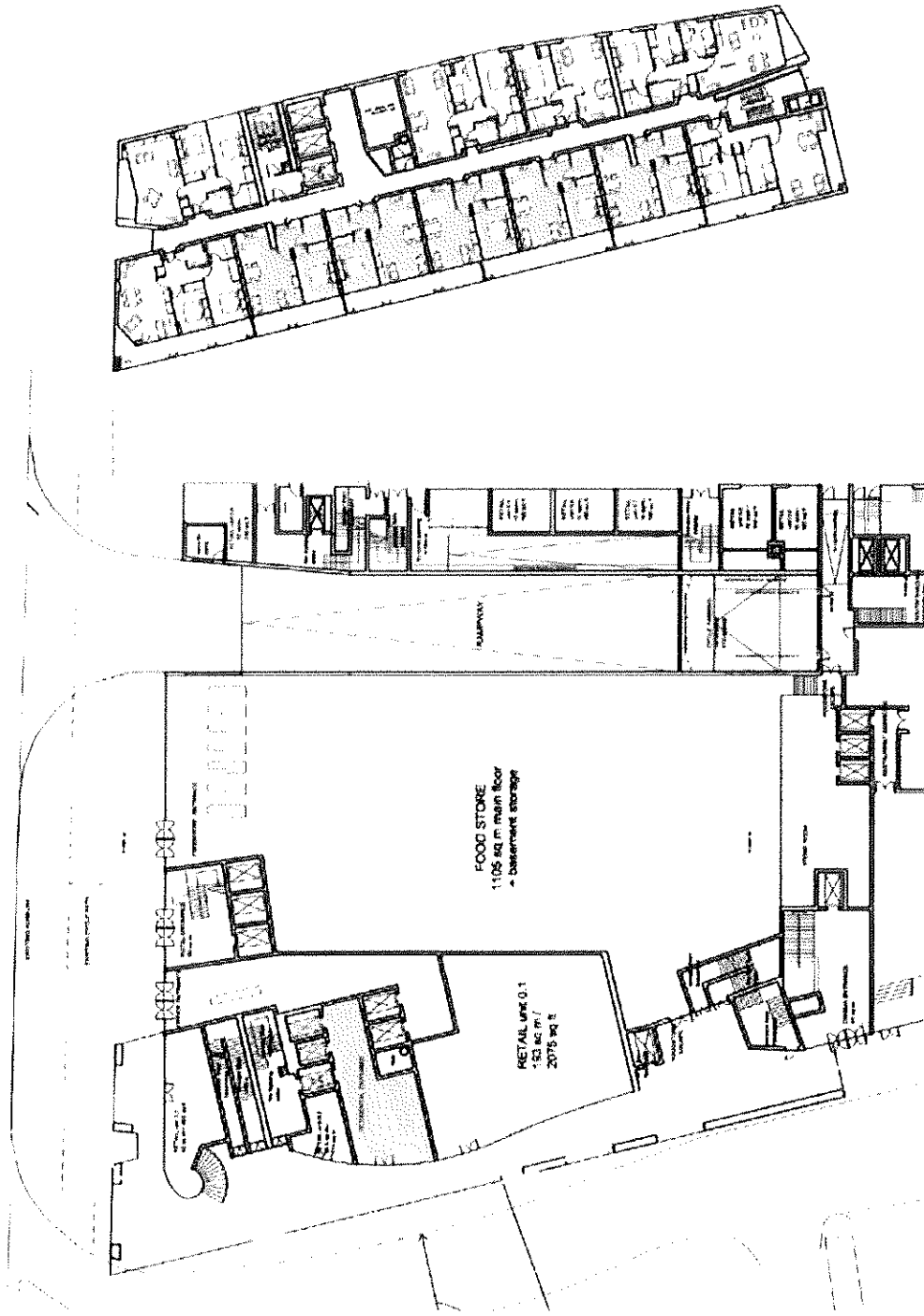
Elephant Road



Affordable business space PLAN B

Elephant Road

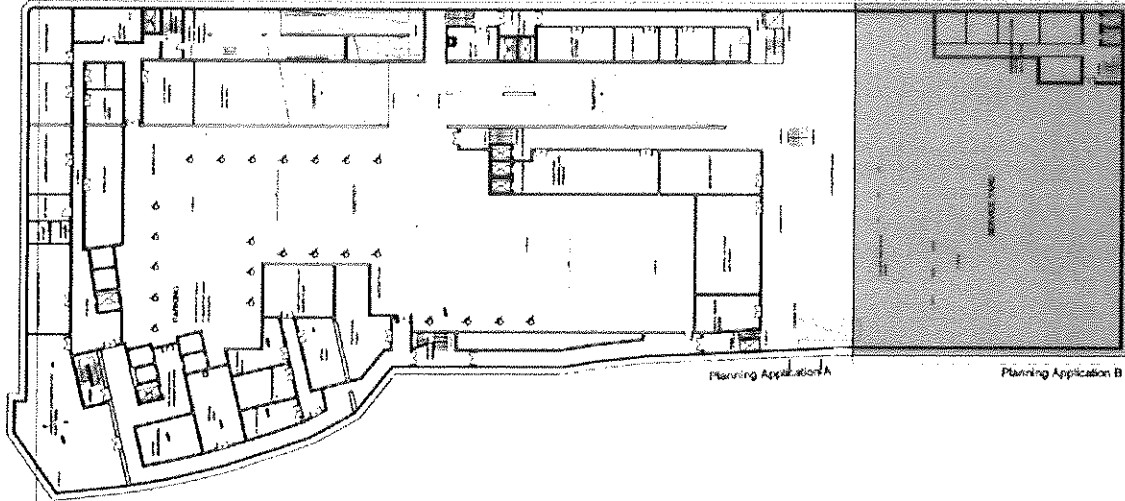




KS

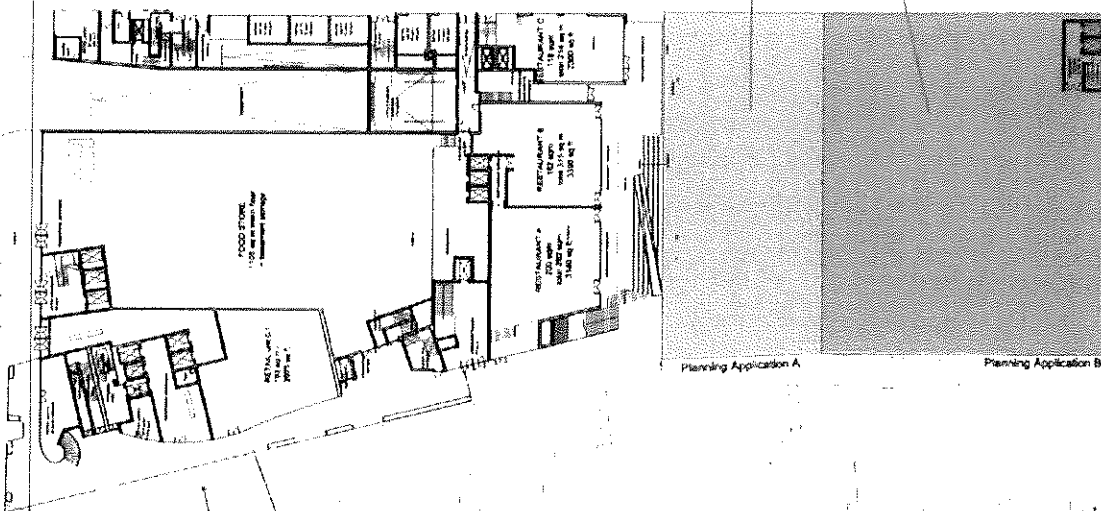


PLAN



Basement
Area

Market Square Land and
Basement Area
PLAN E



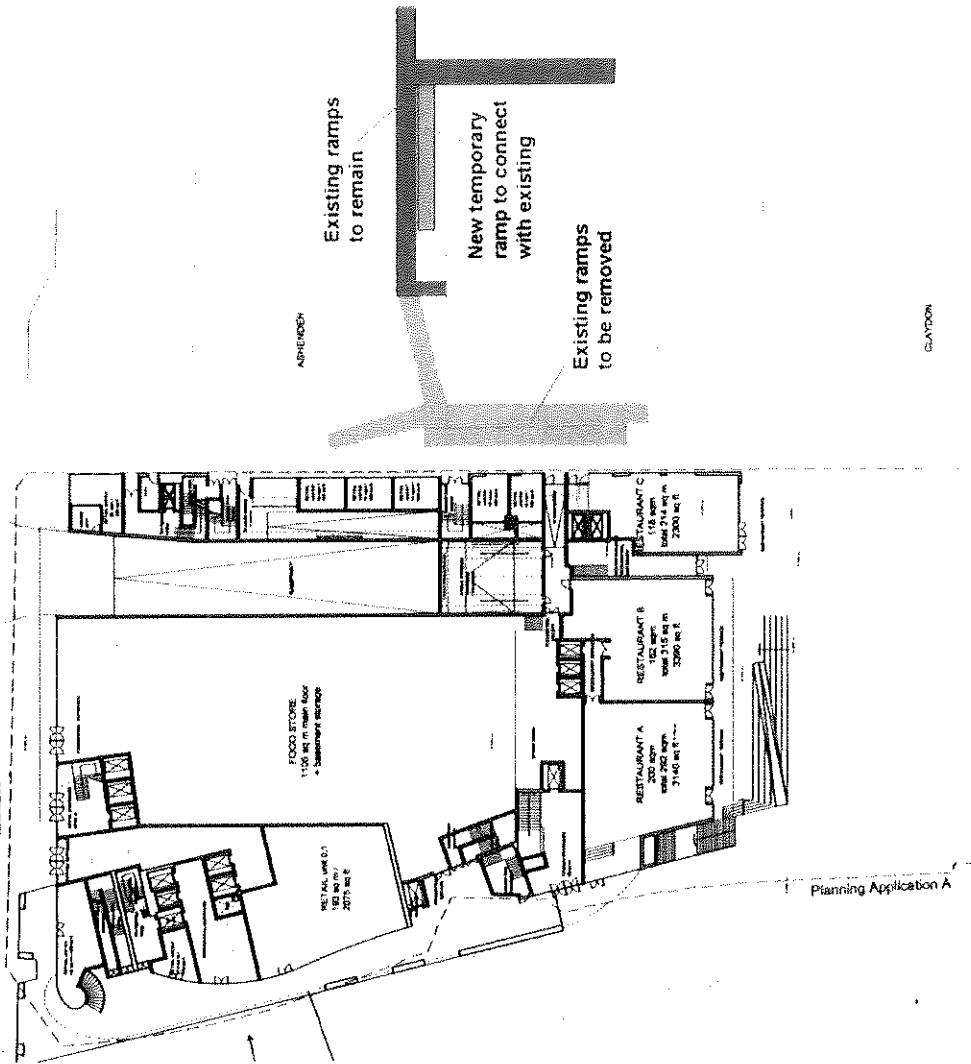
Developer's Market Square
Land

Council's Market Square Land

Ground
Floor
Plan

Elephant Road

NEW KENT ROAD



PLAN

Proposed Access
to the Heygate Estate
PLAN F

Elephant Road



Scale: NTS

Plan 7: Elephant & Castle Regeneration Area



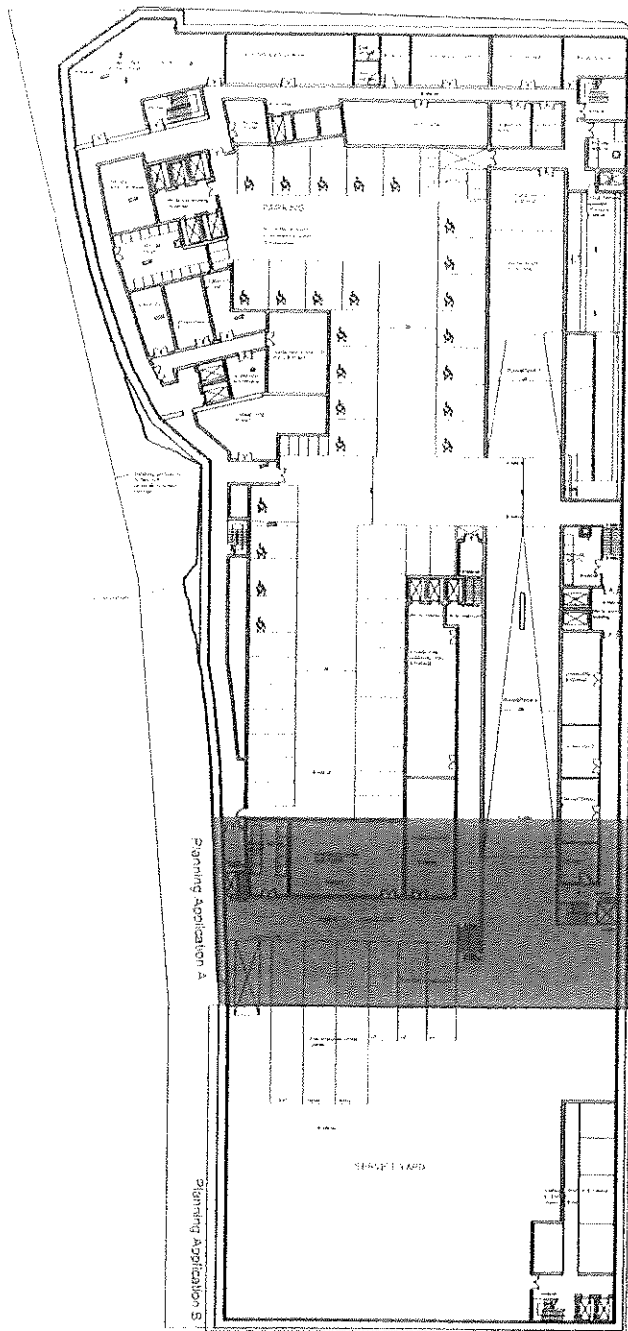
AUTHORISED
SIGNATORY

PLAN 7



PLAN

PLAN 1
REFUGED TRANSFER
19 10 06

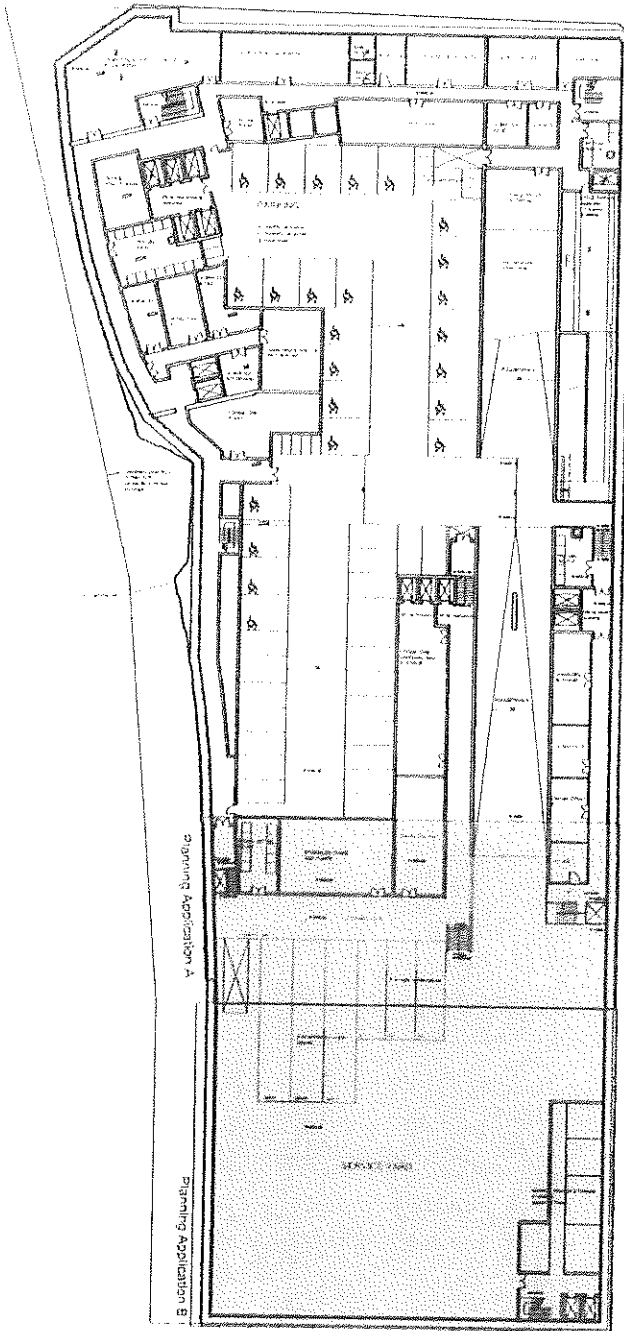


AMENDED BASEMENT



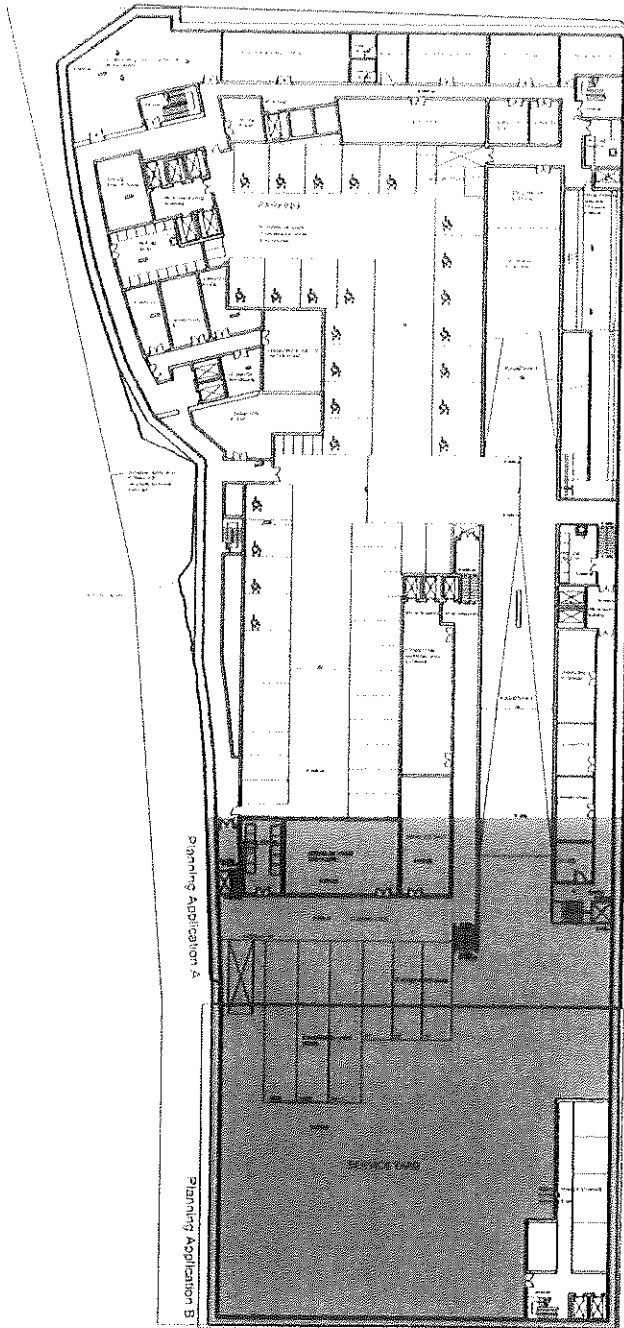
PLAN

PLAN 2 AGREEMENT TO
LEASE
10/10/05



AMENDED BASEMENT

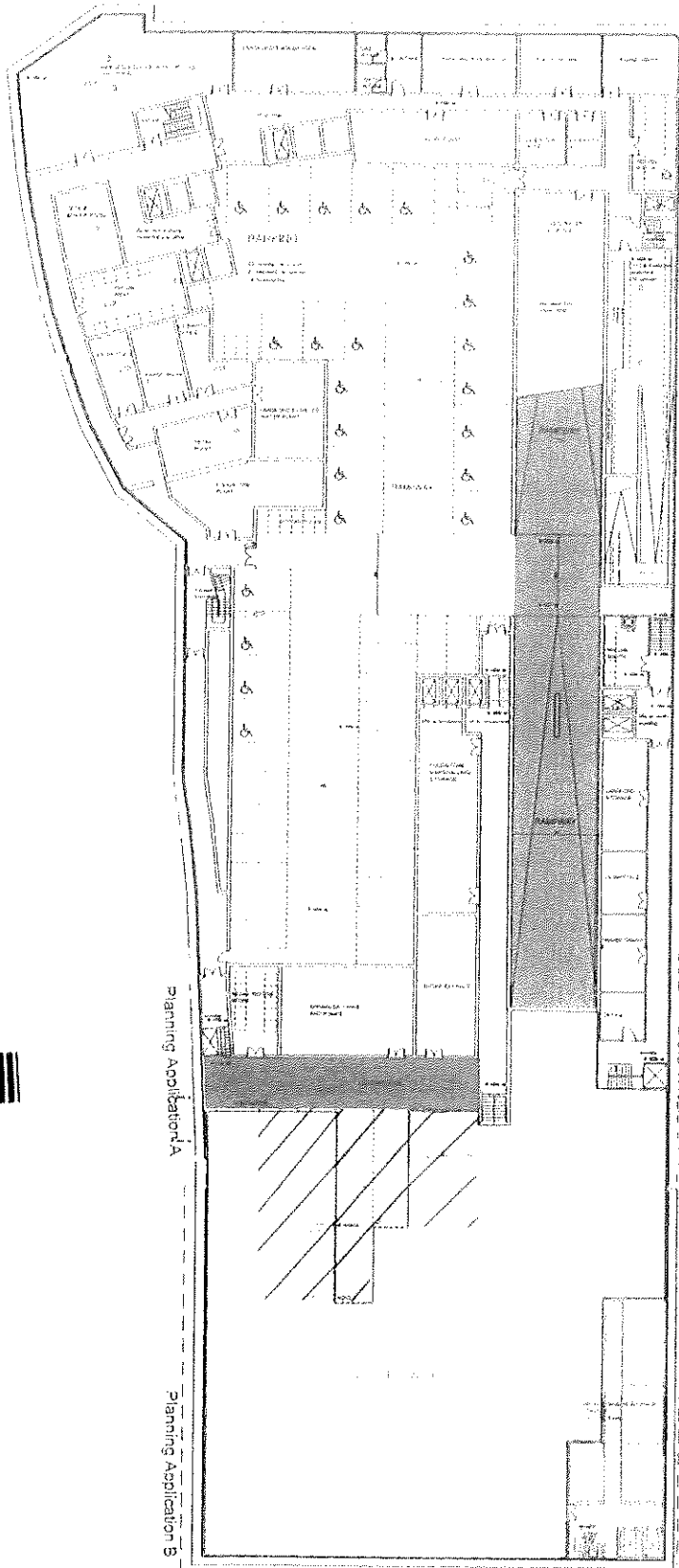
PLAN 3 - DETAIL
10 10 05



PLAN

AMENDED BASEMENT

PLAN 4
RIGHTS RESERVED
AND GRANTED
10-10-06

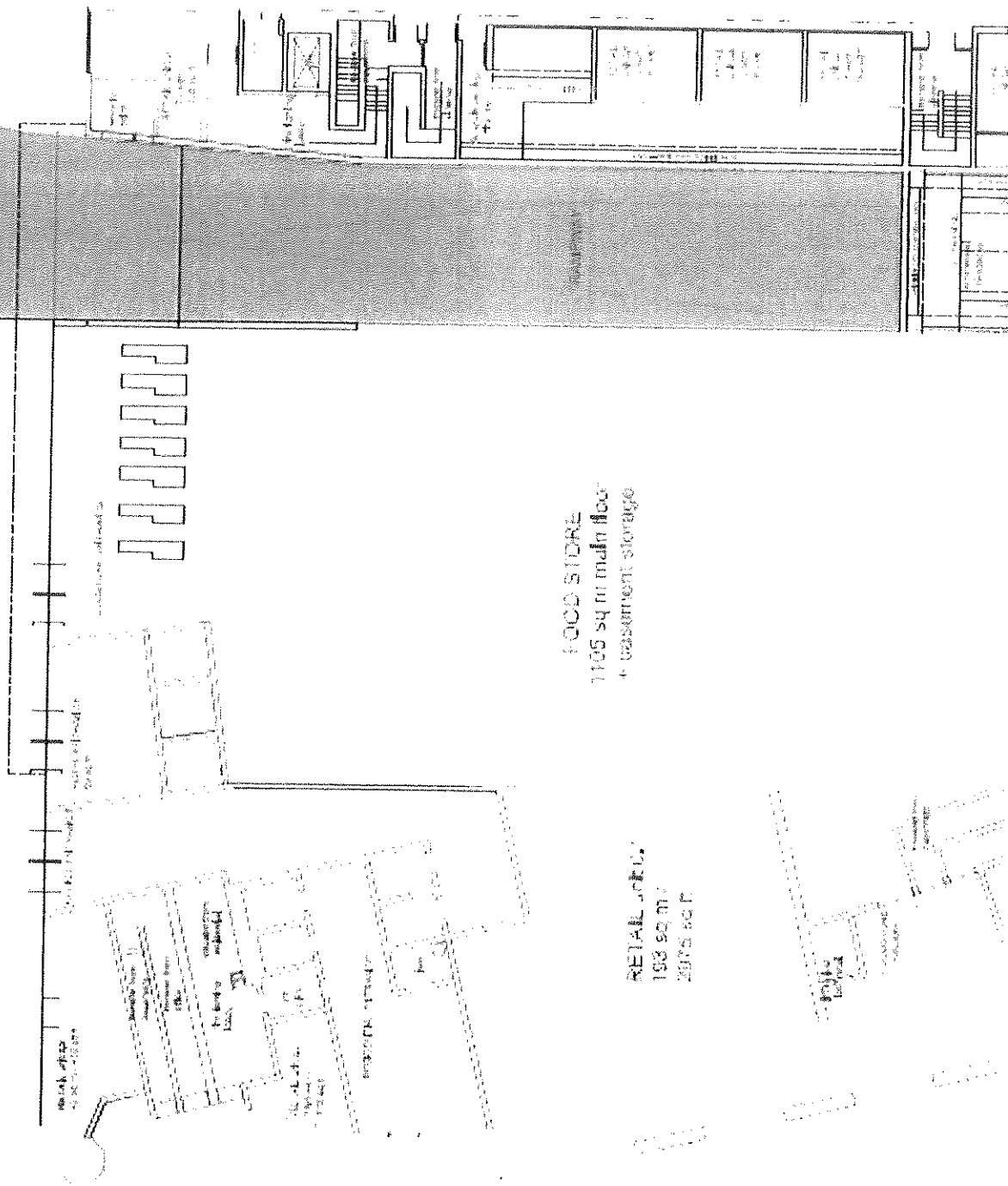


PLAN

FOR PLANNING APPLICATION PURPOSES ONLY
This plan is submitted for planning purposes only. It is not to be used for any other purpose without the written consent of the Planning Department. The Planning Department is not responsible for the accuracy of the information provided on this plan.

P K S
ARCHITECTS
120 BAY
001-105 12
120 BAY
001-105 12

PLAN 5
RIGHT RESERVED
10-10-06



FOOD STORE
1105 sq m main floor
+ basement storage

RETAIL UNIT
193 sq m
2075 sq ft



PLAN

NEW KENT ROAD

ASHENDEN

CLAYDON

RAILWAY VIADUCT

RAILWAY
STATION

Planning Application A

Planning Application B

PLAN 6
MARKET SQUARE LEASE PLAN
November 2006



PLAN 6

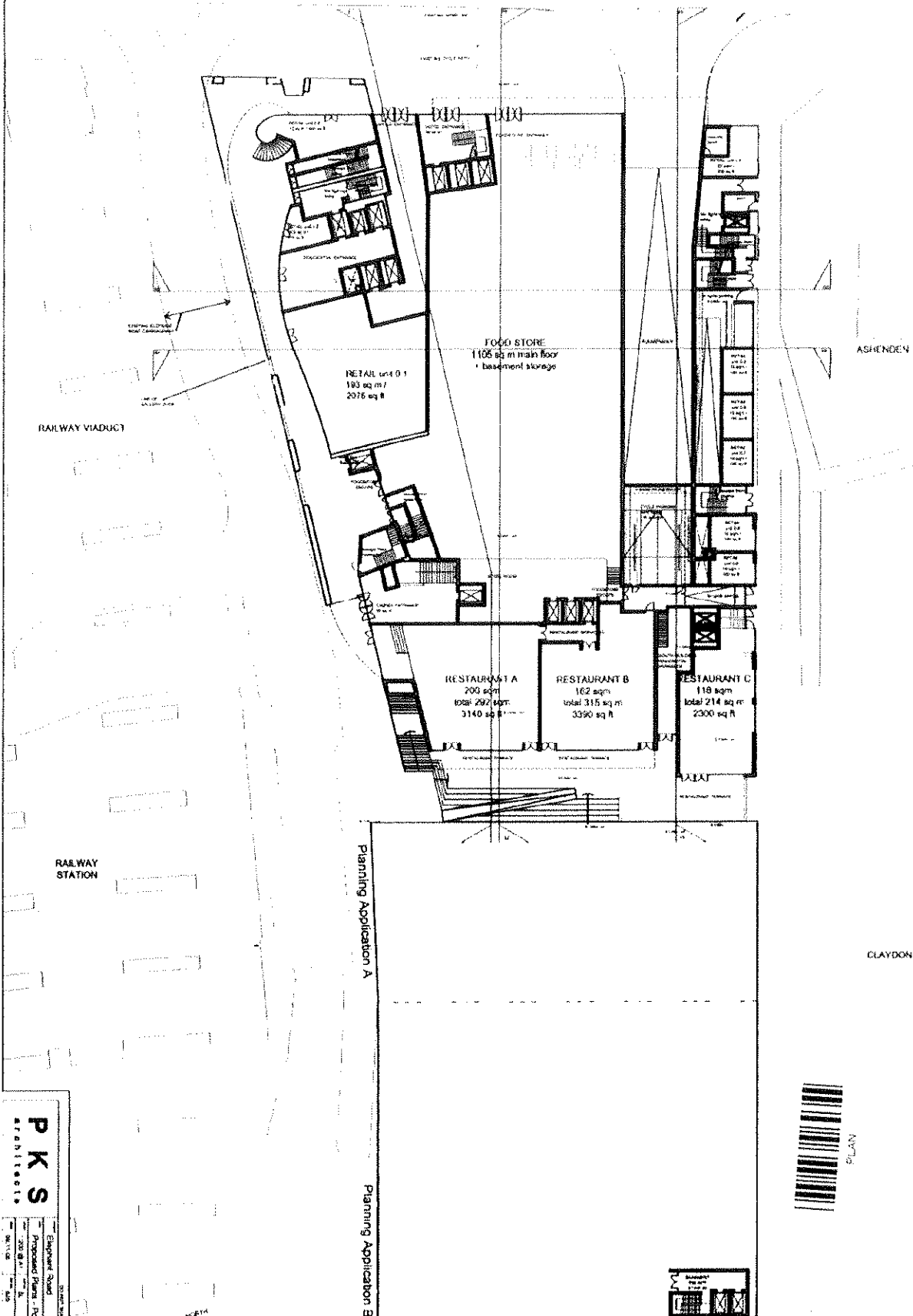
FOR PLANNING APPLICATION PURPOSES ONLY
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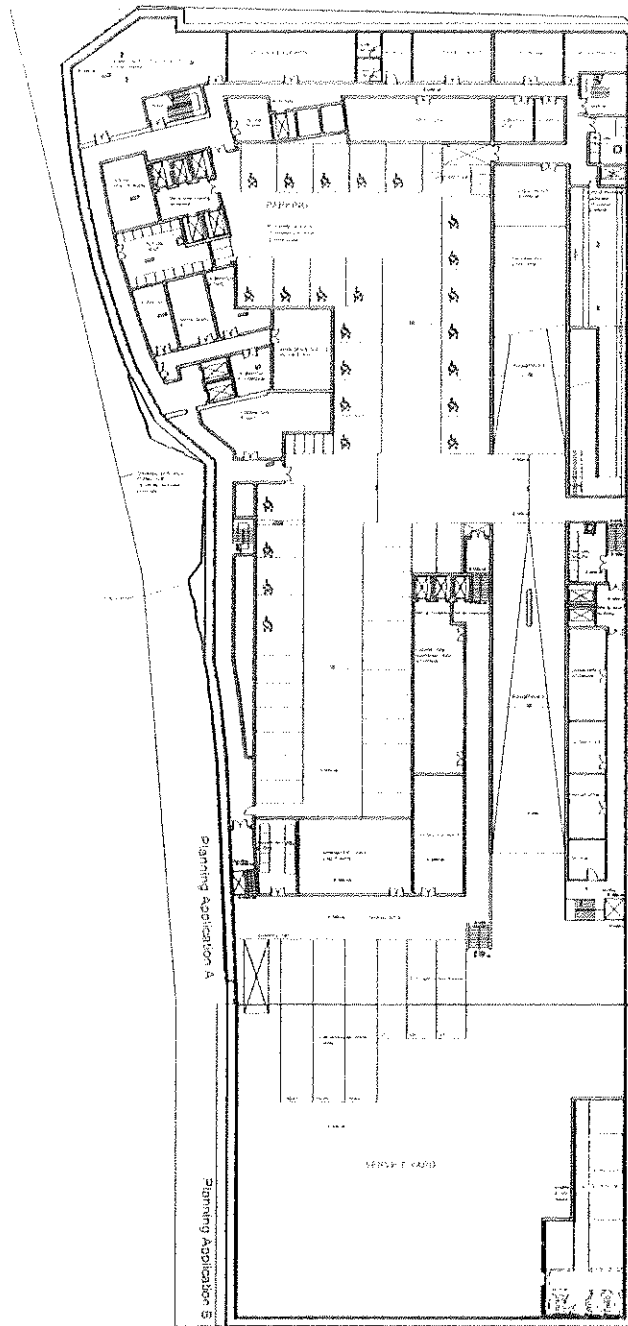
Client: Ashford Road
Proposed Plans: Ground Floor
Scale: 1:500
Date: 001-100-2



0 10m



PLAN 5
MARKET SQUARE DEMISE
BASEMENT LEVEL
10.10.06



AMENDED BASEMENT