

DATED 15<sup>th</sup> October 2009

ROBERT HANS PLATE

-and-

THE COUNCIL OF THE  
BOROUGH OF BOURNEMOUTH

**AGREEMENT**

under Section 106 of the  
Town and Country Planning Act 1990  
imposing planning obligations  
on land at  
81 Palmerston Road  
Bournemouth Dorset

Tanya Coulter  
Legal Services Manager  
Bournemouth Borough Council  
Town Hall  
BOURNEMOUTH  
BH2 6DY

SJC/81 palmerston road

THIS AGREEMENT is made the 15<sup>th</sup> day of October Two thousand and nine

**BETWEEN:**

- (1) ROBERT HANS PLATE of 11 Glencoe Road Bournemouth BH7 7BE ("the Owner") and
- (2) THE COUNCIL OF THE BOROUGH OF BOURNEMOUTH of Town Hall Bournemouth Dorset BH2 6DY ("the Council")

**Background**

- 1 The Owner is the registered proprietor of freehold land situate at 81 Palmerston Road Bournemouth which is registered at HM Land Registry under title number DT134223 (being the land shown edged red on the plan annexed hereto ("the Plan") ("the Land"))
- 2 The Council is the local planning authority for the area within which the Land is situated
- 3 The Owner has applied to the Council for planning permission to develop the Land in accordance with the particulars set out in the Application and the parties have agreed to enter into this Deed in order to secure the planning obligations contained herein

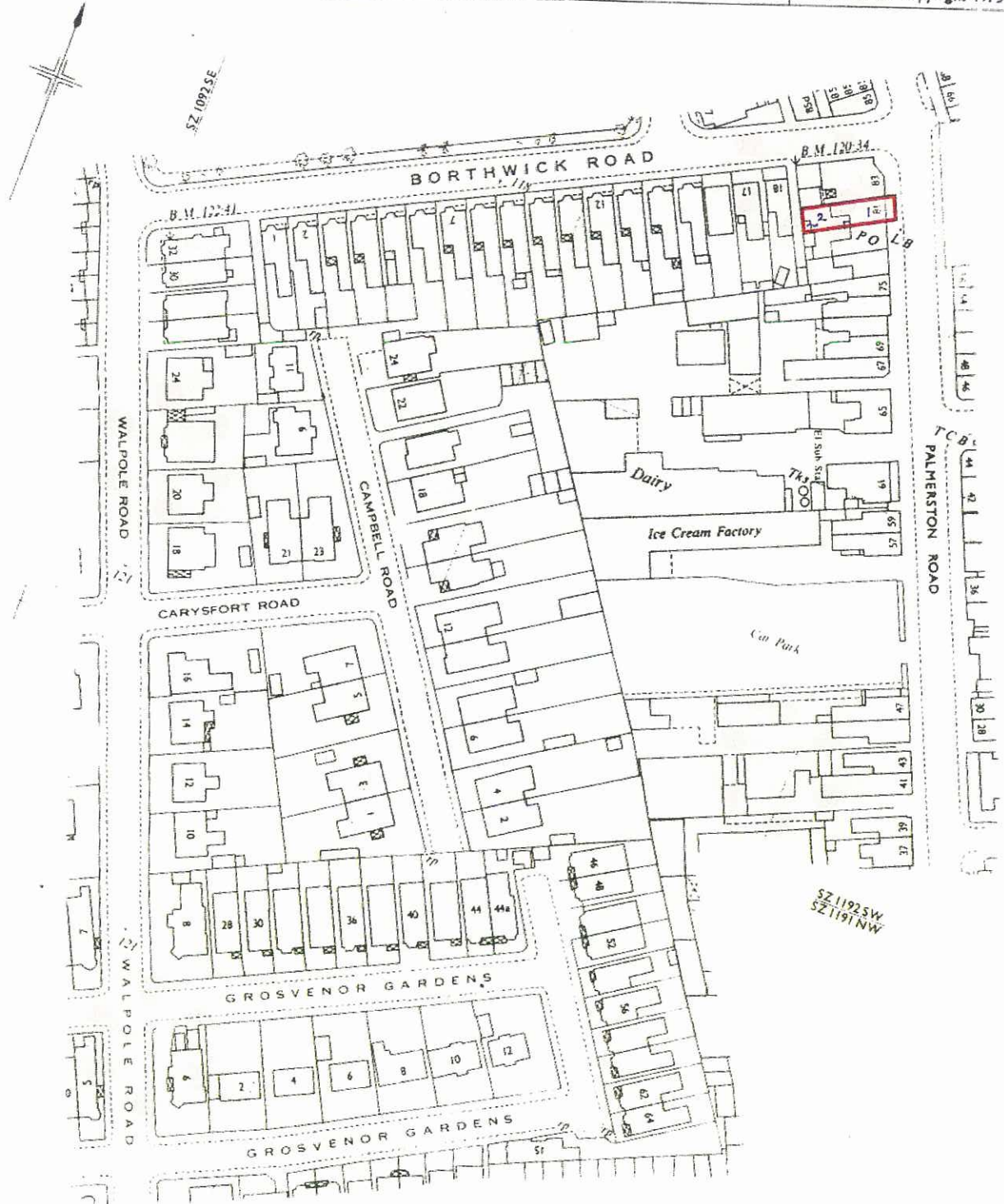
**NOW THIS DEED WITNESSES AS FOLLOWS:**

**1. Definitions**

In this Agreement:

- |                   |   |
|-------------------|---|
| "the Act"         | the Town & Country Planning Act 1990  |
| "the Application" | the Application No. 7-2009-19653-A for planning permission made to the Council and registered on 20 August 2009 |

H.M. LAND REGISTRY		TITLE NUMBER	
		DT 134223	
ORDNANCE SURVEY PLAN REFERENCE	SZ 1192	SECTION C	Scale 1/1250
COUNTY DORSET	DISTRICT BOURNEMOUTH		© Crown copyright 1975



**"the Development"**

the development of the Land proposed in the Application or permitted by planning permission granted pursuant to the Application or carried out substantially in accordance with such planning permission and "Commencement of the Development" means the date on which the Development is taken to be initiated within the meaning of Section 56 of the Act

**"the Nature Conservation Contribution"**

the sum of £1,031.00 (One thousand and thirty one pounds) index linked to the Retail Price Index increased between the date of this agreement and the date of payment plus an administrative fee of £50.00 to be paid by the Owner towards measures which avoid or mitigate against any adverse effect on the Dorset Heathlands in accordance with the Dorset Heathlands Interim Planning Framework 2006-2009

**"the Open Space Contribution"**

the sum of £620.84 (Six hundred and twenty pounds and eighty four pence) to be made by the Owner towards Recreational facilities in accordance with Policy 7.21 of the Adopted Bournemouth District Wide Local Plan

**"the Planning Permission"**

the planning permission to be granted by the Council

**"the Retail Price Index"**

the United Kingdom fiscal annualised retail prices index as published by the Office for National Statistics (or by any government department or other body upon which duties to prepare such an index devolve) provided that in the event of the method used to compile such index or such index being abolished or for any reason whatsoever to apply such alternative as shall be agreed by the parties

**"the Transportation Contribution"**

the sum of £1,100.00 (One thousand one hundred pounds) index linked to the DTI Price Adjustment Formulae for Construction Contracts increased between the date of this agreement and the date of payment plus an administrative fee of £50.00 to be made by the Owner towards transport infrastructure in accordance with the Council's Interim Planning Framework: Developer Contributions for Transport Investment Policy

**2. Construction**

- 2.1 Words importing the masculine include the feminine and the neuter and vice versa and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner
- 2.2 Words importing the singular include the plural and vice versa

- 2.3 In this Agreement unless the context otherwise requires the expressions "the Council" and "the Owner" and substituted words therefor shall include their respective successors in title and assigns
- 2.4 where the Owner is more than one person all covenants agreements and declarations on the part of the Owner herein contained shall be deemed to have been made jointly and severally by all such persons constituting the Owner and so that the said covenants agreements and declarations may be enforced by the Council against such persons jointly and severally as the Council shall in its absolute discretion decide or circumstances require
- 2.5 where reference is made in this Deed to clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed

### **3. Enabling Provisions**

This Agreement is made pursuant to Section 106 of the Town and Country Planning Act 1990

### **4. Commencement**

This Agreement shall come into effect upon the date of this Agreement but the obligations contained herein shall become effective only upon the grant of the Planning Permission and Commencement of the Development save for Clause 8 which shall come into effect immediately upon completion of this Deed

### **5. Covenant**

The Owner on behalf of himself his successors in title and all persons deriving title under him **HEREBY COVENANTS** with the Council that upon planning permission being granted for the development of the Land as aforesaid he will not cause or permit the Commencement of the Development on the Land until the Open Space

Contribution the Nature Conservation Contribution and the Transportation Contribution have been paid to the Council

## **6. Enforceability**

The above covenants shall be enforceable by the Council as Local Planning Authority against the Owner and any person deriving title under him in respect of his interest or any lesser interest in the Land as if that person had also been a party to this Agreement in respect of the interest for the time being held by him but no person or company shall be bound once he has parted with all interest in the land in accordance with s106(4)

## **7. General**

The parties agree that:

- 7.1 nothing in this Agreement constitutes the grant or an obligation to grant planning permission
- 7.2 nothing in this Agreement grants planning permission or any other approval consent or permission required from the Council in the exercise of any other statutory function
- 7.3 nothing in this Agreement fetters or restricts the exercise by the Council of any of its powers
- 7.4 the obligations contained in this Agreement are planning obligations for the purpose of Section 106 of the Act
- 7.5 this Agreement constitutes a Deed
- 7.6 this Agreement is enforceable by the Council as local planning authority
- 7.7 this Agreement shall be registerable as a local land charge by the Council
- 7.8 this Agreement does not confer nor is intended to confer a benefit on a third party within the meaning of the Contracts (Rights of Third Parties) Act 1999

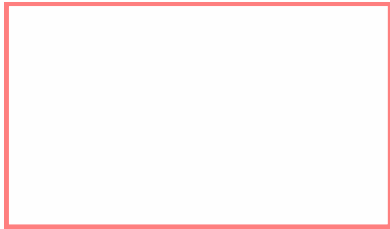
**8. Costs**

The Owner shall pay to the Council on completion of this Deed the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Deed

9. If any part of the said contributions referred to in this Agreement have not been expended for the relevant purposes within 10 years from the date of receipt of the contribution any unexpended amount shall forthwith be returned to the person who paid the contribution and interest will be paid to the person who paid the contribution at a rate equivalent to 2 percent per annum above the base rate of HSBC Bank Plc calculated on a day to day basis upon from the date the payment of the contribution and payable until the actual date of the return of payment thereof both before and after any judgment.

IN WITNESS of which this Agreement has been executed as a Deed the day and year first before written

EXECUTED AS A DEED by the said )  
 )  
ROBERT HANS PLATE )  
 )  
 )  
in the presence of:- )



X

Name: Miss Paula Hewett.  
Address: 23-25 Abbott RD,  
Charnminster  
Occupation: Planning Assistant,

THE COMMON SEAL of THE COUNCIL OF )  
 )  
THE BOROUGH OF BOURNEMOUTH was )  
 )  
hereunto affixed to this Agreement in the )  
 )  
presence of:- )

Authorised Signatory