F/10/68320

Hampshire County Council

Legal Services
Chief Executive's Department
The Castle, Winchester,
Hampshire SO23 8UJ

Telephone 01962 841841
Fax 01962 840215
DX Winchester 2510
www.hants.gov.uk

Planning Department
Eastleigh Borough Council
DX 122380 Eastleigh 2

Enquiries to	Suzanne Hanlon	*My reference*	PT33A/1776/SH/sa
Direct Line	(01962) 832484	*Your reference*	
Date	14 September 2012	*E-mail*	suzanne.hanlon@hants.gov.uk

Dear Sirs

Completion of s278 Agreement – Centre 27, Tollbar Way, Hedge End
Planning Application ref: F/08/62428

I write with reference to the above matter.

Please note that this Agreement completed on 26 July 2012 and I enclose a copy of the completed document for your information. I should be obliged if you would note the contents of this Agreement within the planning register. Please can you inform me once this has been done.

I look forward to hearing from you.

Yours faithfully

[redacted]

Suzanne Hanlon
Solicitor
For Head of Legal Services

Enc.

Lexcel
Practice Management Standard
Law Society Accredited

Head of Legal Services
Kevin Gardner LLB Solicitor
Chief Executive
Andrew Smith OBE MA DPA MBA

F110f8320

DATED 26th July 2012

HAMPSHIRE COUNTY COUNCIL

- and -

RAM CAPITAL LIMITED

- and -

SANTANDER UK PLC

Deed of Agreement for Highway Works at
Centre 27 Tollbar Way Hedge End
pursuant to (inter alia) S.278 Highways Act 1980

HCC File Ref: PT33A/I776AC

K Gardner LLB Solicitor
Head of Legal Services
Hampshire County Council
The Castle
Winchester
Hampshire SO23 8UJ

I hereby certify that this is a true copy.
KRGardner
Head of Legal Services

HAMPSHIRE COUNTY COUNCIL

SECTION 278 DEED OF AGREEMENT

Date: 26th July 2012

PARTIES:

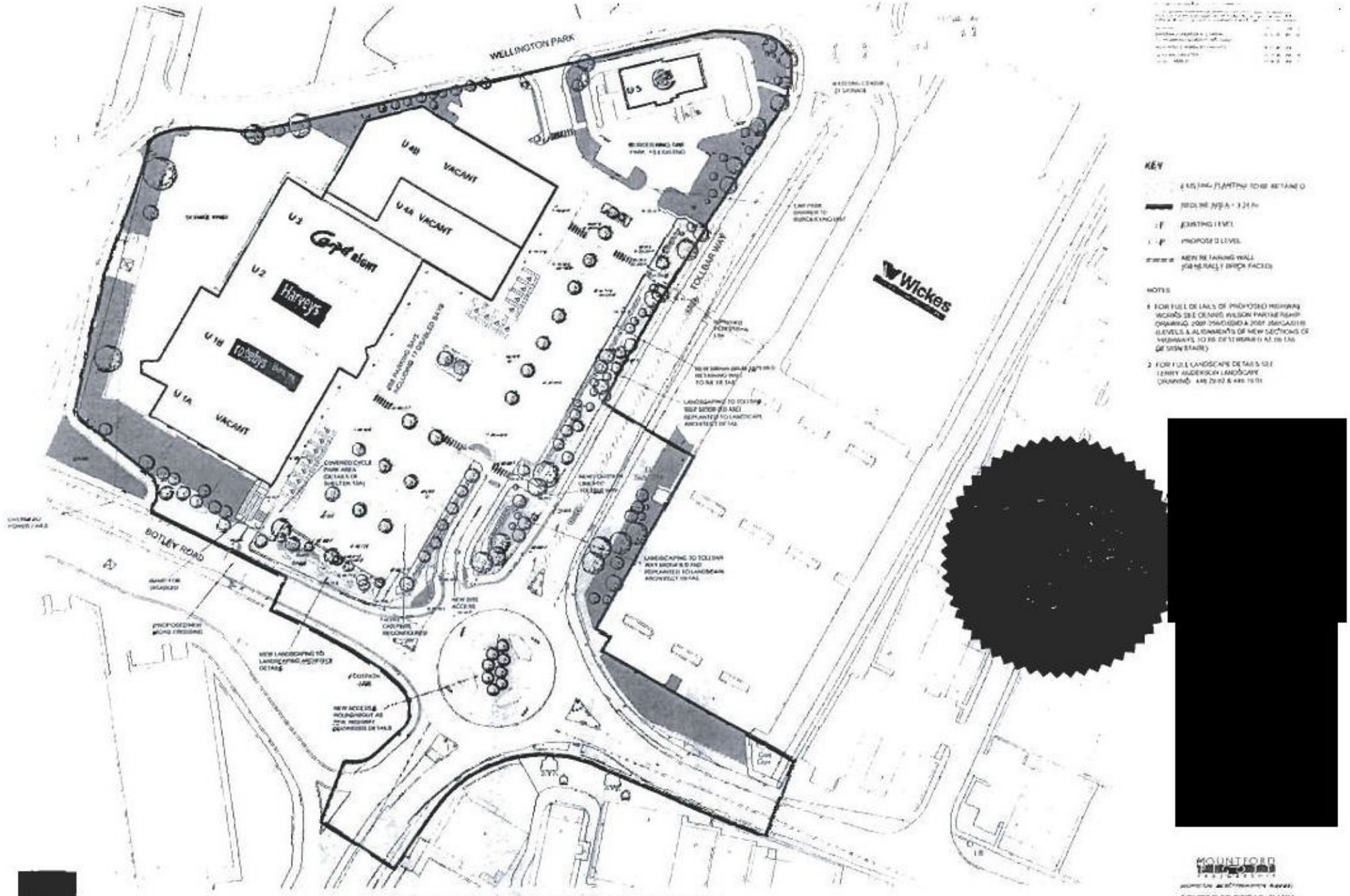
1. HAMPSHIRE COUNTY COUNCIL of The Castle Winchester Hampshire SO23 8UJ ("the County Council")
2. RAM CAPITAL LIMITED (Company Registration Number 7292372 whose registered office is situated at 14-20 Bell Street Romsey Hampshire SO51 8ZE ("the Developer")

3. SANTANDER UK PLC (Company Registration Number 2294747) of Triton Square Regents Place London NW1 3AN ("the Mortgagee")

WHEREAS

1 The County Council is the Highway Authority for Hampshire

2 The Developer is the registered proprietor with title absolute of the land registered at Land Registry under Title Numbers HP472258 and HP731012 for the purposes of identification only shown edged red on plan 0095-PD 10-E attached hereto ("the Land") for the benefit of which Land the highway works hereinafter referred to are carried out subject to charges dated 31st August 2010 in favour of the Mortgagee



AXA REAL ESTATE INVESTMENT MANAGERS

CENTRE 27 RETAIL PARK

HEDGE END

MOUNTFORD

CENTRE 27 RETAIL PARK
REDLINE - SITE BOUNDARY
0005-PD10-E

3 The Developer is desirous of entering into this Agreement for the purposes of securing the carrying out of the highway works described in Schedule 1 hereto ("the Works") and the Developer has agreed that it will pay the cost of construction and maintenance of the Works

4 The Developer now wishes to dedicate as public highway that part of the Land upon which the Works are to be constructed which does not currently form part of the public highway and the County Council agrees to accept such dedication and adopt that part of the Land and the Works as highway maintainable at public expense on the terms and conditions hereinafter contained

5 The County Council is satisfied pursuant to Section 278 of the Highways Act 1980 that it will be of benefit to the public for the County Council to enter this Agreement for the execution of the Works at the expense of the Developer which Works the County Council is authorised to execute pursuant to the Highways Act 1980 or are the subject of planning permission reference F/08/62428 dated 17th July 2008 granted by Eastleigh Borough Council ("the Planning Permission")

NOW THIS DEED OF AGREEMENT WITNESSETH as follows:

1. This Deed of Agreement is made pursuant to Sections 38 and 278 of the Highways Act 1980 Section 111 of the Local Government Act 1972 Sections 2

3 and 4 of the Local Government Act 2000 and Section 33 of the Local Government (Miscellaneous Provisions) Act 1982

2(a) Where any agreement certificate or approval is to be given by the County Council under the terms of this Deed then the same shall be in writing and not be unreasonably withheld or delayed

(b) Any notice or other communication to be served by the Developer under the terms of this Deed shall be in writing and shall not be deemed to be given until received by the County Council at The Castle, Winchester, Hampshire SO23 8UJ and addressed to such addressee as the County Council may from time to time stipulate (but who shall be unless otherwise notified the Chief Executive quoting reference PT33A1776)

(c) Any reference in this Deed to the expression 'working day' shall mean any day Monday to Friday inclusive excluding bank holidays between the hours of 0830 and 1630 and the expression 'Working Day' shall be construed accordingly

Developer's Covenants

3. The Developer hereby covenants with the County Council as follows:

(a) **The Works**

To carry out at its own expense and at no cost to the County Council the Works described in Schedule 1 as contractor for the County

Council in a good and workman like manner and with proper materials and in accordance in all respects with the terms and conditions described in Schedule 2

(b) **Payments**

To pay to the County Council:

(i) Prior to the issue of the Certificate of Completion referred to in Clause 4(b) and in respect of the future maintenance of:-

(a) traffic signal installations (including controlled pedestrian crossings and any CCTV variable message signs traffic travel and bus passenger information systems) the sum of 5% of the works cost of the construction of those works including inter-alia ducts drawpits signal poles and any other costs incurred by the County Council in respect of loop cutting and installation

(b) hydrobrakes petrol interceptors/pebble drains/linear ditches (if any) a commuted sum equal to the replacement cost per hydrobrake/petrol interceptor/linear ditch (if any)

(c) soakaways (if any) including any rubble drains terminal soakaways or linear ditch soakaways – a commuted sum of £3,500.00 per soakaway PROVIDED THAT should any soakaway have a cubic capacity exceeding 5 cubic metres an additional sum will be payable calculated pro rata in respect of any cubic capacity in excess of 5 cubic metres

(d) high friction surfaces (if any) a commuted sum equal to the replacement cost

(e) illuminated signs (if any) a commuted sum equal to the replacement cost

(f) decorative (i.e. non standard) street lighting (if any) a commuted sum equal to the replacement cost

(g) street furniture (if any) a commuted sum equal to the replacement cost

(h) bus shelters (including any variable message signs traffic travel and bus passenger information) (if any) a commuted sum equal to the replacement cost

(i) Landscape Works (if any) a commuted sum of:

(i) in respect of shrub planting £40 per square metre

(ii) in respect of any new trees £400 per tree

(iii) in respect of any retained trees £1,500 per tree

(ii) On the date hereof the whole of the reasonable costs incurred by the County Council's Head of Legal Services ("the Head of Legal Services") and the County Council's Director of Environment in the preparation of this Deed

(iii) Prior to commencement of the Works the reasonable cost to the County Council of approving the detailed contract drawings for the Works including the cost of approval of preliminary design check drawings and structural approvals (less any pre-check fees already paid to the County Council on account of such costs)

(iv) Prior to commencement of the Works the full cost to the County Council of any road traffic orders required to facilitate the Works

(v) Prior to commencement of the Works the full cost to the County Council of any permanent traffic regulation orders or road hump notices

(c) **Indemnity**

That it hereby indemnifies the County Council in respect of all actions claims demands expenses and proceedings arising out of any breach by the Developer of its obligations hereunder or in connection with or incidental to the carrying out of the Works and any works required by any Statutory Undertaker other than those arising under Parts I and II of the Land Compensation Act 1973 in respect of which the provisions of (g) below shall apply

(d) **Public Liability Insurance**

The Developer shall without prejudice to its liability under (c) and (e) hereof to indemnify the County Council be insured against public liability risks for a sum of at least £10,000,000 in respect of any one claim and shall ensure that any person or persons carrying out the Works on its behalf is similarly insured against public liability risks and the Developer or any person authorised by it to carry out the Works shall on request by the County Council produce for inspection the relevant policies of insurance together with receipts for the premiums paid

(e) **Land Compensation Act Claims**

The Developer hereby indemnifies the County Council against all costs associated with its responsibilities and all claims pursuant to Part I and Part II of the Land Compensation Act 1973 (as amended) and regulations made thereunder (including claims the County Council properly determine should be met under the provisions of Regulation 4 of the Noise Insulation Regulations 1975) arising out of the use of the Works PROVIDED THAT the County Council shall use all reasonable endeavours to mitigate and minimise any claims and liabilities in respect of which indemnity is sought

County Council's Covenants

4. The County Council hereby covenants with the Developer as follows:

(a) That it hereby authorises the Developer's contractor approved by the County Council in accordance with Schedule 2 paragraph 8(b) to carry out the Works within the public highway subject to and strictly in accordance with the terms conditions and stipulations in Schedule 2

(b) That upon completion of the Works to the satisfaction of the County Council the County Council will issue a certificate of completion ("the Certificate of Completion") and as from the date of the Certificate of Completion that part of the Works as are at the date of this Deed within

the public highway or which are on that part of the Land which will become public highway pursuant to Clause 8 of this Deed shall become maintainable at public expense SAVE THAT for the first twelve months thereafter ("the Maintenance Period") the Developer shall maintain the Works and after the expiry of the Maintenance Period and PROVIDED ALWAYS that the Works have been fully maintained as aforesaid and that any defects appearing or safety issues identified during the Maintenance Period have been made good and all sums due under this Agreement have been paid the County Council shall thereupon issue a certificate of maintenance of the Works ("the Certificate of Maintenance") which for the avoidance of doubt shall not include any Landscape Works as defined at Clause 4(c) below PROVIDED FURTHER THAT The County Council shall be at liberty to delay the issue of the Certificate of Maintenance if in its opinion the Works are likely to be used by heavy or other construction vehicles driven by or on behalf of the Developer or his or its servants and agents or contractors in connection with road or building works carried out on the Land or on adjoining land in any which cases the Maintenance Period shall be extended accordingly

(c) Without prejudice to the generality of the foregoing Clause 4(b) if the Works include any landscape works (which shall mean any new or retained trees or shrub planting forming part of the Works or as are within the site of the Works) ("Landscape Works")) the Developer shall maintain the Landscape Works to a specification agreed in writing by the County Council (acting reasonably) to the reasonable satisfaction of the County

Council for a period of thirty six months from completion of the Works which shall include replacing any Landscape Works which become damaged or diseased or die during such thirty six month period ("the Landscape Maintenance Period") whereupon and PROVIDED ALWAYS that the Landscape Works have been satisfactorily maintained the County Council shall issue a certificate of maintenance of the Landscape Works "the Landscape Certificate of Maintenance"

5. **It is further agreed between the parties that:**

(a) In accordance with Regulation 8 of the Construction (Design and Management) Regulations 2007 ("the CDM Regulations") the Developer hereby elects to be the only client for the purposes of the CDM Regulations for any part of the Works as may be within the public highway and the County Council consents to such an election and for the avoidance of doubt the County Council shall have a duty only under Regulations 5(1)(b) 10(1) 15 and 17 of the CDM Regulations insofar as those duties relate to health and safety information in the County Council's possession as a Highway Authority

(b) If the Site Waste Management Plan Regulations 2008 ("the SWMP Regulations") apply to the Works then the Developer is the client pursuant to the SWMP Regulations and only client and all duties

and responsibilities on the part of the client for the purposes of the SWMP Regulations shall be the responsibility of the Developer

(c) If the estimated value of the contract for the Works equals or exceeds the threshold identified in Section 8 (2) of the Public Contracts Regulations 2006 then the Developer as contractor for the County Council shall in appointing an economic operator to carry out the Works comply with the Public Contracts Regulations 2006.

(d) Without prejudice to the terms hereof if the Developer fails to execute or complete the Works in accordance with its obligations hereunder the County Council shall after not less than fourteen days notice in writing to the Developer (or immediately in any case of emergency or danger) be entitled to complete the Works or reinstate the highway or complete such alternative works as the County Council considers appropriate in default with its own employees or by contract or otherwise (entering the Land if necessary to do so) and to recover the cost as certified by the County Council

6. **Disputes**

(a) Save for matters of interpretation of this Agreement (which shall be matters for the Court) in the event of any dispute arising between the parties hereto in respect of any matter contained in this Agreement including questions of value and any question of reasonableness the same shall be referred to an expert

("Expert") to be agreed upon between the parties hereto 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 Royal Institution of Chartered Surveyors and the Expert's decision shall be final and binding on the parties hereto and whose costs (including the re-imbursement of the costs of any other experts' fees) shall be at his discretion

(b) The Expert shall have at least ten years post qualification experience in the subject matter of the dispute and shall act as an expert and not an arbitrator

(c) The Expert shall be appointed subject to an express requirement that he reaches a decision and communicates it to the parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than 30 Working Days from the date of his appointment to act

(d) The Expert shall be required to give notice to each of the third parties inviting each of them to submit to him within such period as he shall reasonably determine within 10 Working Days of his appointment written submissions and supporting material and shall afford to each of the said parties an opportunity to make counter submissions within a further 5 Working Days in respect of any such submission and material and the Expert shall disregard any representations made out of time and the Expert's decision shall be given in writing within 15 Working Days from receipt of any counter submissions or in the event that there are no counter submissions within 15 Working Days of

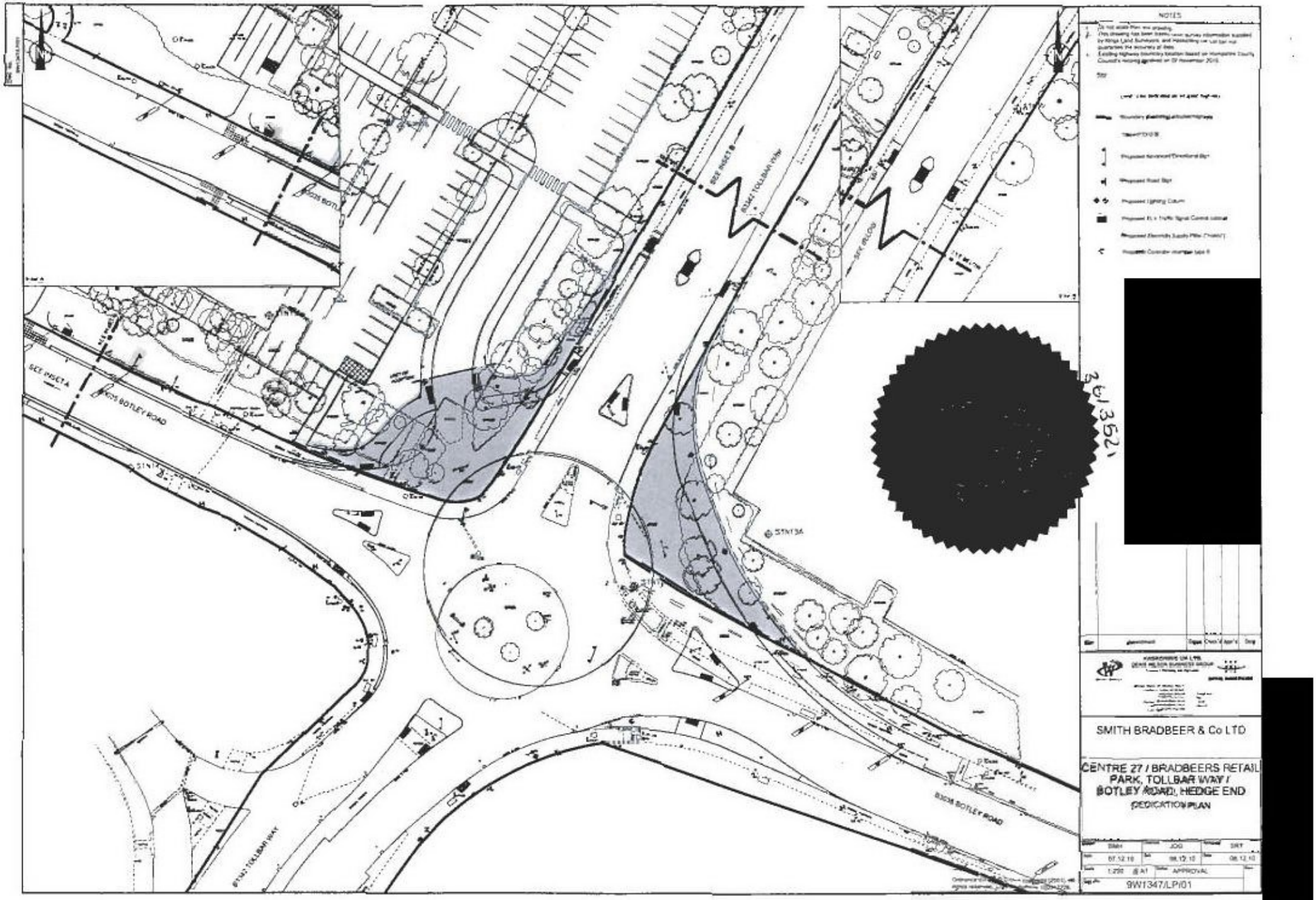
receipt of the written submissions and supporting material with reasons and in the absence of manifest error the Expert's decision shall be final and binding on the said parties

(e) It is hereby declared and agreed between the parties hereto that nothing in this Clause 6 shall be taken to fetter the ability of the County Council to seek legal redress of any breach of the obligations entered into by the Developer in this Agreement

7. This Deed shall be registered as a Local Land Charge and the Council shall consent to the removal of the entry in the Local Land Charges register once the Works have been completed and the Maintenance Period or (if applicable and if later) the Landscape Maintenance Period has expired

8. The Owner hereby agrees that the Works are for the benefit of the Land and hereby dedicates that part of the Land coloured orange on Drawing number 9W1347/LP/01 ("the Orange Land") attached hereto as public highway such dedication to take effect from issue of the Certificate of Completion PROVIDED THAT on default by the Developer of any of the terms of the Agreement the County Council shall have the right to enter the Orange Land to complete the Works and in this case dedication shall be effective from the date of such entry

9. If the Works have not commenced in accordance with the terms of this Agreement within 2 years of the date hereof this Agreement (save always for


NOTES
SEE INSET A
SEE INSET B
SEE BELOW
B3035 BOTLEY ROAD
B3041 TOLLBAR WAY
STN13A
[redacted]
SMITH BRADBEER & Co LTD
CENTRE 27 / BRADBEERS RETAIL PARK, TOLLBAR WAY / BOTLEY ROAD, HEDGE END
DEDICATION PLAN
JOG
SRT
APPROVAL
9W1347/LP/01

any outstanding liabilities on the part of the Developer) shall absolutely determine and cease to have any effect

10. (a) For the avoidance of doubt reference wherever it appears in this Deed to the Developer shall not include any successor in title thereto

(b) Reference whenever it appears in this Deed to any statute or other legislation shall include any amendment thereto or other regulations Codes of Practice or other directions made or given thereunder

11. Notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999 nothing in this Deed confers or purports to confer any rights to enforce any of the terms and provisions herein on any person who is not a party hereto or a successor in title to a party hereto

Mortgagee's Consent

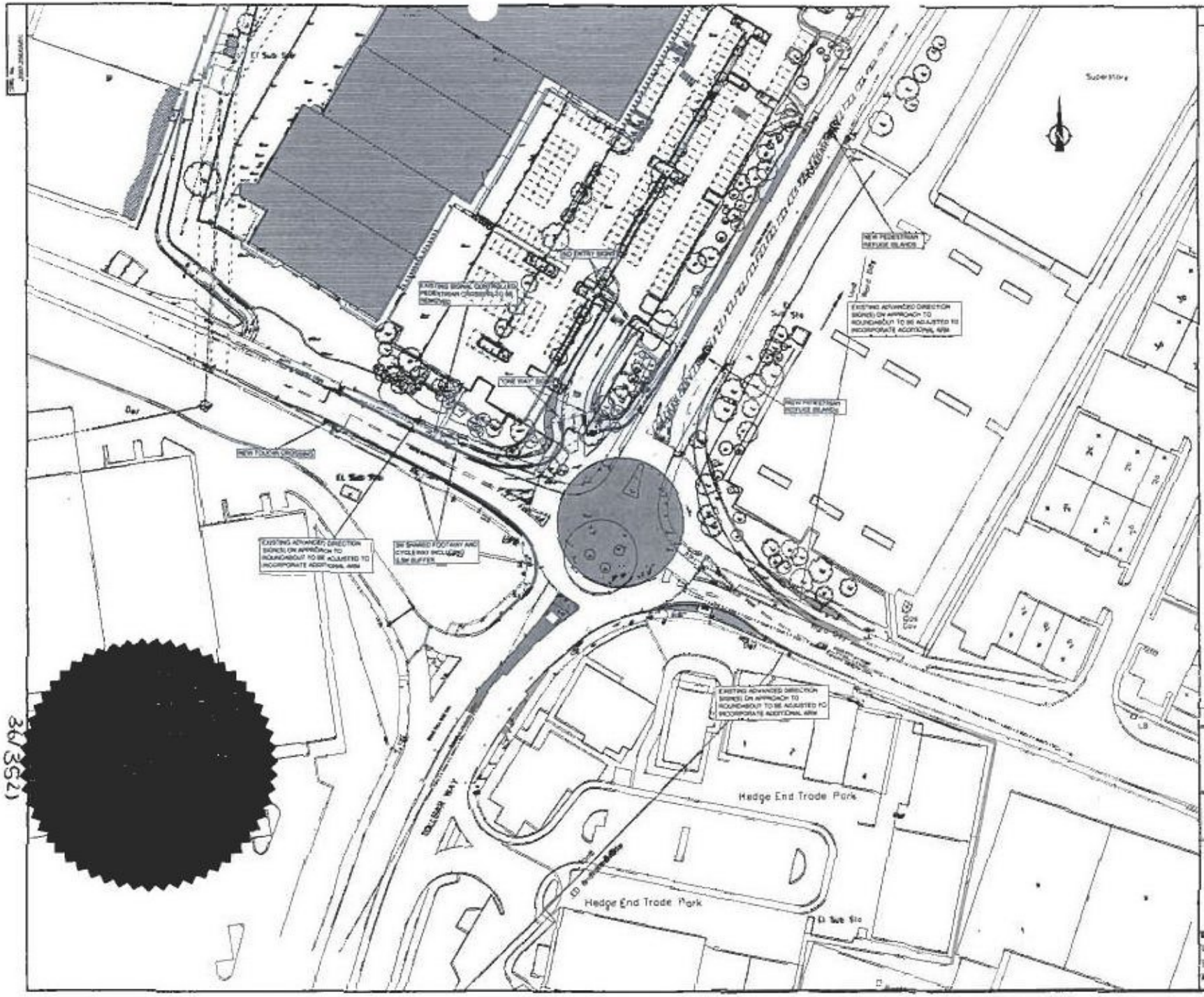
12. The Mortgagee hereby consents to the Developer entering this Deed and to the dedication of the Land as herein provided but the Mortgagee shall have no further or other liability hereunder

SCHEDULE 1

The Works referred to in Recital 3 of this Agreement and shown in principle on Drawing number 2007-256/GA/01 Rev C (other details having been supplied in separate drawings by the Developer to the County Council) shall comprise the provision of:-

- New vehicular and pedestrian access
- Enlarged roundabout at Botley Road/Tollbar Way
- Footway improvements along frontages of site
- Relocated Toucan Crossing
- Pedestrian refuge Islands
- Landscaping

TOGETHER WITH such ancillary works as may be required by the County Council which ancillary works may include inter alia the provision of street lighting traffic signs carriageway markings footways street furniture and drainage and any necessary alterations to statutory undertakers equipment PROVIDED THAT if the Department for Transport Technical Design Standards or Advice is amended after the date of this Agreement the County Council shall be at liberty to review the Works and require any amendments he deems necessary to ensure that the Works comply with the revised standards and advice SAVE THAT in circumstances where detailed contract drawings have been approved in writing by the County Council and the Works are commenced within three months of the date of the written approval thereof then



NOTES

[redacted]

Rev	Amendment	Drawn	Check'd	App'd	Date
	Amended to suit Landscape Architects comments, pedestrian refuge moved, additional pedestrian islands and road markings added	RAS	RAS	JAM	[illegible]
	Right Stack Moved	RAS	JM	JM	[illegible]
		TC	MRT	ART	[illegible]

Dunlop Wilson Partnership

AXA REIM

TOLLBAR WAY,
HEDGE END
HIGHWAY WORKS
GENERAL ARRANGEMENT PLAN

TC	JM	JM	
1.6.07	21.06.07	01.06.07	
1:500 @ A1	APPROVAL		
2007-2N6/GA/01			C

[redacted]

36/352)

SUBJECT ALWAYS TO AND WITHOUT PREJUDICE to Schedule 2 paragraph 9(f) hereof the County Council shall not seek any amendments to the Works

SCHEDULE 2

The Works shall be carried out in accordance with the following terms and conditions:

1. The Works shall not be commenced until:

   (a) Detailed contract drawings a programme of work ("the Programme") and traffic management measures have been prepared by the Developer and approved by the County Council in writing (such approval not to be unreasonably withheld or delayed)

   (b) The Developer has demonstrated to the satisfaction of the County Council how it will comply with the Code of Practice for the Co-ordination of Street Works for Road Purposes and Related Matters 1992 and has submitted to the County Council a works management plan ("Management Plan") showing how in the course of planning and construction of the Works it will:

      (i) minimise disruption to all types of traffic;

      (ii) avoid instances of newly surfaced highway having to be re-excavated or have further works carried out on them;

      (iii) minimise the number of closures/diversions required by the Works;

      (iv) ensure that it takes into consideration the safety of all types of traffic that may be diverted or affected by the Works.

(c)(i) Written details of the form of construction contract for the Works has been submitted to the County Council and approved by the County Council

(ii) Where the estimated value of the contract for the Works equals or exceeds the threshold identified in Section 8 (2) of the Public Contracts Regulations 2006, tenders have been invited in open competition and in compliance with the Public Contract Regulations 2006 and copies of the OJEU notices and an evaluation report justifying the appointment of the economic operator has been submitted to the County Council

(d) Any necessary licences have been obtained and notices given pursuant to the New Roads and Street Works Act 1991

(e) Where in accordance with Regulation 2(3) of the CDM Regulations the Works are notifiable the Developer as the only client has provided to the County Council:-

(i) written details of the CDM co-ordinator and the principal contractor

(ii) a copy of the Notification of Project (form HSE10) to the HSE pursuant to Regulation 21 of the CDM Regulations

(iii) confirmation that a construction phase plan has been provided to the CDM co-ordinator and the CDM co-ordinator has advised that such plan is suitable for the Works

(f) If the SWMP Regulations apply to the Works the Developer has:

preparing an alternative contract and of supervising the execution of this alternative contract PROVIDED THAT upon issue of the Certificate of Completion the Bond may be reduced by 85% as agreed by the County Council and PROVIDED FURTHER (but without prejudice always to paragraph (g)(ii)) that upon issue by the County Council of the Certificate of Maintenance the Bond shall be released

(ii) If the Works include any Landscape Works then 5% of the Bond shall be retained or cash deposit provided in a sum stipulated by the County Council in lieu thereof prior to issue of the Certificate of Maintenance for the duration of the Landscape Maintenance Period until issue of the Landscape Certificate of Maintenance

(iii) If a cash deposit is provided for the Landscape Maintenance Period in accordance with paragraph 1(g)(ii) then such cash deposit shall be held by the County Council for use during the Landscape Maintenance Period as if such cash deposit had been provided as initial security for the Works in accordance with paragraph (1)(g)(i)

(h) Without prejudice to Schedule 2 paragraph 1(g)(i) hereof a cash deposit has been provided in the sum of £1000 or 2.5% (whichever is the greater) of the cost of the Works as estimated by the County Council and without prejudice to the rights of the County Council pursuant to Clause 5(d) hereof the County Council may in the event of breach of any of the terms hereof use such sum to remedy such breach provided that the County

(i) prepared a site waste management plan and appointed a principal contractor; and

(ii) has provided to the County Council written details of the principal contractor

(g)(i) A bond has been provided in the sum of the tender price of the Works plus the estimated cost of any commuted sums payable in accordance with Clause 3(b)(i) hereof in both cases as approved by the County Council together with the cost of any statutory undertakers Works plus 10% thereof ('the Bond') by a Surety acceptable to the Head of Legal Services to the effect that if the Developer fails at any time to carry out or observe any of the terms conditions and stipulations on its part contained in this Deed or in the event of the Developer becoming bankrupt or going into liquidation or entering administrative receivership or entering into a deed of arrangement for the benefit of its creditors the Surety shall pay to the County Council on demand such sum (not exceeding the Bond amount specified above) as may be certified by the County Council to be required in order to complete the Works or reinstate the highway or complete such alternative works as the County Council considers appropriate and remedy any defects prior to the Works becoming maintainable at the public expense or occurring or discovered during the Maintenance Period and if appropriate Landscape Maintenance Period and the cost of any other sums due under the terms of this Deed and such further sum as the Head of Legal Services may certify to be necessary to fully reimburse the County Council in respect of any costs and expenses incurred by the County Council in the enforcement of the obligations on the part of the Developer under this Deed together with the cost to the County Council of

Council shall return to the Developer on issue of the Certificate of Maintenance any part of the cash deposit or any part thereof not so used

(i) A noise survey and assessment in respect of the Works has been undertaken by a competent noise expert in accordance with the advice and instruction contained in the technical memorandum entitled 'Calculation of Road Traffic Noise' published by the Stationery Office ('the 1988 Code') as may be amended from time to time and a copy of the survey and assessment has been submitted to the County Council and all and any requirements arising therefrom have been undertaken by the Developer at its own expense

(j) The original insurance policy and receipts referred to in Clause 3(f) or copies thereof certified by a solicitor have been produced

2. Detailed contract drawings for highway structures shall be prepared by the Developer and submitted for written approval to the County Council (such approval not to be unreasonably withheld or delayed) in accordance with Department for Transport Document BD2/05 or any revision or replacement thereof and the structural design and checking procedure shall be carried out by a chartered engineer familiar with Department of Transport Codes of Practice who shall state on Form TA1 or revision or replacement thereof the documents to be agreed as applicable

3. The Developer shall pay the whole of the County Council's reasonable costs incurred in inspecting the Works and shall pay before the commencement of the Works a sum equal to 5 per cent of the cost of the Works as estimated by the County Council or £2,000 (whichever is the greater) on account of such costs and further shall pay any balance due within 14 days of receipt of an invoice from the County Council

4. (a) Without prejudice to the Programme the Developer shall following approval of detailed contract drawings the Programme and traffic management measures notify the County Council at least 3 months prior to the commencement of the Works of its intention to commence the Works

(b) The Developer shall in addition further notify the County Council at least 10 clear Working Days prior to commencement of the Works of its intention to proceed with the Works and shall further notify the County Council that the Works have commenced no later than the next Working Day following commencement of the Works

5. At least 3 months prior to commencement of the Works the Developer shall give notice to each statutory undertaker for the time being of any service(s) which may be affected by the Works of the proposal to carry out the Works or which might be required in consequence of the Works and shall place orders and pay any costs to all statutory undertakers for all works to their mains or services necessitated by the Works and shall relocate all street furniture affected to the satisfaction of the County Council

6. The Works shall be signed and protected to at least the standards of Chapter 8 of the Traffic Signs Manual published by The Stationery Office and the proposed arrangements shall be approved in writing by the County Council before the Works commence

7. The Works shall be carried out in accordance with the Volume 1 of the Manual of Contract Documents for Highway Works published by The Stationery Office in March 1998 as modified and extended by any supplements and revisions and further as modified and extended by supplements or practice notes issued by the County Council including the practice note "Offsite Highway Works carried out by Developers on behalf of the Highway Authority" all as in force at the date of commencement of the Works ("the Specification") and in accordance with the Programme

8. The Works shall be carried out:

   (a) Unless agreed otherwise by the County Council under the terms of a construction contract incorporating the seventh edition of the Conditions of Contract approved by the Institution of Civil Engineers jointly with the Association of Consulting Engineers and commonly known as the ICE Conditions of Contract approved by the County Council in accordance with paragraph 1(c) (i); and

   (b) By a roadworks contractor approved by the County Council; and

(c) Under the direction of an Engineer ('the Engineer') employed by the Developer who shall be (unless agreed otherwise by the County Council) a Chartered Civil Engineer and in all cases a suitable and appropriately qualified person under the approved construction contract and approved by the County Council and who shall be independent of the roadworks contractor

9. (a) The inspection and direction of the County Council shall be accepted and the Works shall be carried out in accordance with the approved contract drawings the Specification and the Programme and to a standard of workmanship and quality of materials approved by the County Council

(b) During the progress of the Works the County Council shall have free access to every part of the Works to inspect the same as they proceed and all materials used or intended to be used therein and the Developer shall give effect to any reasonable requirements made or reasonable direction given by the County Council to conform to the detailed plans drawings the Specification and the Programme

(c) The Developer shall not cover up any works without the approval of the County Council and shall afford full opportunity for him to examine and measure any work which is about to be covered up and to examine foundations before permanent work is placed thereon and shall give at least three working days notice to the County Council whenever any such work or foundations is or are ready for examination (but the provisions of

this sub-paragraph shall not apply to the covering up of statutory undertaker's conduits where the statutory undertaker has appointed the relevant works) and written proof of such approval has been provided to the County Council

(d) The County Council shall have power in its reasonable discretion to test or require the testing of materials plant and workmanship used or proposed to be used in the Works and to reject any materials plant or workmanship so tested which it may reasonably find to be not in accordance with the detailed plans drawings and the Specification

(e) The Developer shall as soon as is reasonably practicable replace or repair any materials plant or workmanship which have been found not in accordance with the detailed drawings and the Specification with such as are in accordance thereof

(f) Immediately prior to the issue of the Certificate of Completion and (also if required by the County Council prior to issue of the Certificate of Maintenance) on site road safety audits shall be carried out by the Developer in the presence of the County Council and arising therefrom the County Council shall be at liberty to require such alterations to the approved detailed contract drawings and to the Works at the expense of the Developer as may be reasonably required to ensure the safety of users of the highway

10 The Works shall be completed to the satisfaction of the County Council in accordance with the timescale specified in the Programme or any variation thereof agreed by the County Council (agreement to such variation not to be unreasonably withheld or delayed) and in any event the access onto the roundabout (shown cross-hatched red on the plan 9W1347/TM/01 attached hereto) shall not be brought into use until all of the Works are completed PROVIDED THAT the period for completion of the Works as specified in the Programme shall run from the date of appointment of the contractor which is to carry out the Works and such period shall be extended by such periods equal to any periods for extension of time granted for completion of the Works to the contractor under the contract for the carrying out of the Works approved by the County Council under paragraph 1 (c)(i) of Schedule 2 and should the Works not be completed to the satisfaction of the County Council in accordance with the timescale specified in the Programme the Developer shall if required by the County Council pay to the County Council on demand a sum of up to £2,000 as stipulated by the County Council per Working Day for each day the Works continue on the public highway past the timescale specified in the Programme which the County Council shall apply towards the purpose of developing policies for the promotion and encouragement of safe integrated and economic transport facilities and services to from and within its area

11. The Developer shall not at any time give consent to the erection by any telecommunications operator of telegraph poles or telephone poles or to the erection by any Statutory Undertaker or public or private company firm or individual of any overground or underground telecommunications equipment without the consent in writing of the County Council

12. The Developer shall fully maintain the Works for the Maintenance Period (and if appropriate the Landscape Maintenance Period) and shall make good any defects or damage which may arise or be discovered during such period

13. The Developer shall provide the County Council with the following

(a) Prior to issue of the Certificate of Completion

(i) CCTV Drain Survey together with details of gully manhole and catchpit locations in an agreed GPS format; and

(b) Within 3 months of issue of the Certificate of Completion

(i) Health and Safety files

(ii) accurate 1:500 scale of "as built" drawings supplied electronically on a disc as an image file j-peg and as a CAD drawing in .dwg format and on paper set of "as built drawings"

(iii) records of the earthworks showing sources of material used in areas of fill, description of fill materials descriptions of sub-grades in cut areas copies of results of tests of material carried out as part of the supervision of the construction of the earthworks (if applicable)

(iv) records of the sources of supply of all other manufactured materials (eg. drainage goods fencing materials traffic signs electrical components and cables etc)

(v) an up to date Electrical Installation Certificate and schedule of test results in respect of any street lighting in accordance with BS7671 or any amendment/replacement thereof and which certificate shall be signed by a competent person in accordance with Appendix 6 of the BS7671 in a format approved by the County Council

IN WITNESS whereof the parties hereto have executed this document as a Deed delivered the day and year first before written



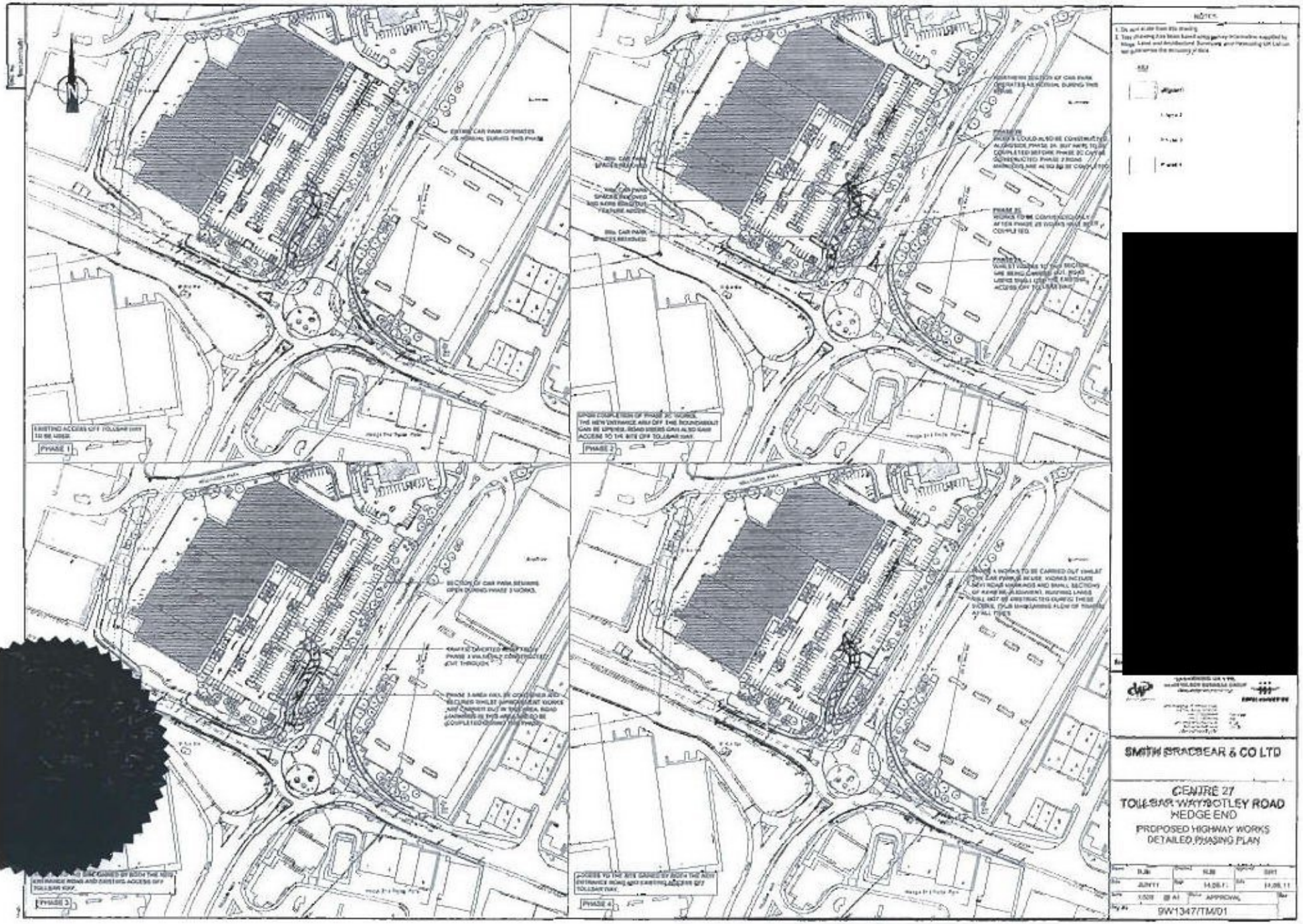
EXECUTED as a DEED by affixing the)
COMMON SEAL of HAMPSHIRE)
COUNTY COUNCIL in the presence of:-)

[redacted]
Authorised Signatory

EXECUTED as a DEED by)
RAM CAPITAL LIMITED acting by two)
directors or one director and the company)
secretary)

Director

Director/Sec [redacted]


PHASE 1
PHASE 2
PHASE 3
PHASE 4
SMITH STRATBEAR & CO LTD
CENTRE 27
TOLLGATE WAY BOTLEY ROAD
WEDGE END
PROPOSED HIGHWAY WORKS
DETAILED PHASING PLAN
9W1347/TM/01

SIGNED as a DEED for and on behalf of)
SANTANDER UK PLC by:-)

[redacted]

REGIONAL DIRECTOR
Authorised Signatory