

DATED 1 May 2024

CCL DEVELCO 4 LIMITED
and
BARCLAYS BANK
TO
READING BOROUGH COUNCIL

SECTION 106 AGREEMENT

constituting a Planning Obligation relating to
Land Adjacent to 300 Kings Road, Reading RG1 4HP

Application Reference No. 221162

Appeal Reference No. APP/E0345/W/23/3335887

Michael Graham LLB(Hons); MBA
Assistant Director of Legal &
Democratic Services
Reading Borough Council
Civic Offices Bridge Street
Reading RG1 2LU
Iken: 025478
S106 No 221162

THIS AGREEMENT is made the

1 May

2024

BETWEEN:

- (1) **CCL DEVELCO 4 LIMITED** (Co. Regn. No. 08964542) whose registered office is at, Palladium House, 1-4 Argyll Street, London W1F 7LD (the **Owner**);
- (2) **BARCLAYS BANK PLC** (Co. Regn. No. 01026167) of Lending Operations, PO Box, 299, Birmingham B1 3PF (the **Mortgagee**); and
- (3) **READING BOROUGH COUNCIL** whose address is at Civic Offices, Bridge Street, Reading RG1 2LU (the **Council**)

hereinafter called “**the Parties**”

RECITALS

- (A) The Council is the local planning authority for the purposes of the 1990 Act for the borough of Reading in which the Appeal Land is situated.
- (B) The Owner is the registered proprietor of the freehold interest in the Appeal Land under HM Land Registry title number BK196882 within the meaning of section 106(9)(b) of the 1990 Act.
- (C) The Mortgagee has the benefit of a legal charge dated 23 August 2021 which is registered at HM Land Registry under title number BK196882 and has an interest in the Appeal Land within the meaning of section 106(9)(b) of the 1990 Act.
- (D) On 4 September 2023 the Application was refused by the Council.
- (E) On 21 December 2023 the Owner submitted the Appeal to the Secretary of State.
- (F) The Owner has entered into this Agreement to mitigate the impact of the Development.

NOW IN PURSUANCE OF THE POWERS CONTAINED in Section 106 of the 1990 Act IT IS HEREBY AGREED AND DECLARED between the parties hereto as follows:-

Definitions

1. The following expressions shall have the following meanings which for the avoidance of doubt shall apply to all parts of this Agreement:

1990 Act

means the Town and Country Planning Act 1990 as amended;

Affordable Housing

means social rented housing, affordable rented housing and intermediate housing as defined in Annex 2 of the National Planning Policy Framework first published on 27 March 2012 and last updated in December 2023 (or any subsequent definition in any revision amendment or re-enactment thereof published by the UK Government);

Agreement

means this Agreement;

Appeal

means the appeal made by the Owner following the Council's refusal of the Application and which has been allocated PINS Reference: APP/E0345/W/23/3335887;

Application

means the application for planning permission submitted to the Council on 4 August 2022 and given reference number 221162;

Appeal Land

means land Adjacent to 300 Kings Road, Reading RG1 4HP being land against which this Agreement may be enforced as shown for identification purposes only edged in red on the Plan, a copy of which is appended at Appendix 1 to this Agreement;

Approved Construction ESP

means the Construction ESP approved by the Council via its Partner Organisation pursuant to Paragraph (3) of Schedule 3 hereto;

2013 Building Regulations

means Approved Document L1A (2013 edition) issued under the Building Regulations 2010;

Benchmark Land Value

means the sum of £180,000 (ONE HUNDRED AND EIGHTY THOUSAND POUNDS) being the agreed existing use value as car parking;

Build Costs

means the reasonable costs, expenses and other sums which are commensurate with prevailing market rates and are reasonably and properly incurred by the Owner in connection with the acquisition, disposal, construction, marketing and management of the Development including without limitation the following:

- (1) all reasonable and relevant construction costs (to include any site remediation, demolition, stripping out and site clearance works);
- (2) stamp duty land tax and land registry fees;
- (3) the cost of obtaining any statutory approvals, consents or licences or permissions required from any local or competent authority to enable the Owner to carry out and complete the Development;
- (4) any Community Infrastructure Levy (excluding, for the avoidance of any doubt, any surcharges and/or late payment interest) that is payable;
- (5) the sums paid to the Council pursuant to this Agreement (including legal fees incurred in connection with this Agreement) other than the Deferred Contribution;
- (6) Finance Costs;
- (7) any reasonable costs (commensurate with prevailing rates) relating to the sale, lease or other disposal of the Development (including structural warranties) and all legal, surveyors and other professional fees, agency fees, advertising, marketing, promotional expenses and other costs in connection with any of the items referred to in this definition; and
- (8) the fees of all professional consultants appointed in relation to the Development;

as at the Relevant Date PROVIDED THAT:

- (i) where contracts have been let and/or expenditure committed or incurred with unconnected third parties on an arm's length basis such costs shall represent actual agreed tender prices or expenditure committed or incurred but where the final costs under any such contracts are not known then such final costs shall represent a reasonable estimate of such final costs;
- (ii) where contracts have been let and/or expenditure committed or incurred with connected third parties or otherwise than on an arm's length basis then such costs shall represent reasonable estimates on the assumption that they are procured from unconnected third parties and on an arm's length basis;
- (iii) where contracts have not been let and/or other items of expenditure have not yet been committed or incurred then such costs shall represent reasonable estimates on the assumption that they are procured from unconnected third parties on an arm's length basis; and
- (iv) no items shall be counted more than once;

Carbon Off-Setting

means each Residential Unit must achieve a minimum of THIRTY-FIVE PER CENT (35%) improvement in regulated emissions over the Target Emissions Rate in the 2013 Building Regulations, plus a financial contribution of ONE THOUSAND EIGHT HUNDRED POUNDS (£1,800) per remaining tonne towards carbon offsetting within the Borough (calculated as SIXTY POUNDS (£60) / tonne over a THIRTY (30) year period);

Carbon Off-Setting Contribution

a carbon off-setting contribution to be calculated and paid by the Owner to the Council according to the provisions in Schedule 2 towards the Council's Carbon Off Setting requirements to off set additional residual carbon emissions (in tonnes CO2 per year) in the event that any of the Residential Units cannot fully meet the zero carbon target on site as required by Policy H5 of the Reading Borough Local Plan 2019

Commencement

means the carrying out of a material operation as defined in Section 56(4) of the 1990 Act but (for the purposes of this Agreement only) not including any works of removing any above ground materials (excluding buildings) from the Appeal Land, temporary landscaping, ground investigation, site survey works, construction of boundary fencing or hauling, decontamination, soil investigation and archaeological testing and Commence and Commenced shall be construed accordingly;

Commencement Notice

means a written notice to be served by the Owner upon the Council stating the proposed date of Commencement of the Development;

Construction ESP Contribution

means a commuted sum of £2,950 Index Linked and calculated using the following formula as set out in the Employment Skills and Training SPD:

Two thousand five hundred pounds (£2,500) x Gross Internal Area (m2)/ 1000m2

to be paid to the Council in accordance with the provisions in Schedule 3 and applied by its Partner Organisation towards the Employment and Skills Measures insofar as they relate to the construction of the Development;

Construction Employment and Skills Measures

means a range of employment skills and training measures to be developed by the Council and the Council's Partner Organisation to mitigate the impacts of the Development by ensuring that Local Labour have better access to employment opportunities available at the construction stage of the Development. ;

Contributions means the Deferred Contribution, if payable; the Carbon Off-setting Contribution and the Construction ESP Contribution;

Deferred Contribution

means a contribution to be paid by the Owner to the Council pursuant to the provisions in Schedule 1 and to be used by the Council (if received) towards the provision of Affordable Housing within the Borough;

Deferred Contribution Cap

means the sum which shall form part of each Updated Viability Appraisal, as approved by the Council (or the Expert as the case may be), and equates to the cost of providing thirty percent (30%) Affordable Housing as part of the Development in accordance with the Affordable Housing Mix and policy H3 of the Reading Borough Local Plan as adopted by the Council in November 2019;

Deemed Disposal

means a deemed transfer of the freehold interest or grant of a leasehold interest in a Residential Unit, and other revenue-generating interests within the Development at Market Value where the Owner does not dispose of the unit or element in question but lets it out or otherwise permits Occupation of it at the Relevant Date;

Development

means construction of a part five part three storey building of 14 residential apartments (C3) and associated undercroft car parking;

Disposal

means:

- (a) a sale of the freehold interest;
 - (b) the grant or assignment of a lease; or
 - (c) the grant of an assured shorthold tenancy agreement or a short term let,
- always excluding Sham Transactions and "Dispose", "Disposals" and "Disposed" shall be construed accordingly.

Disposal Schedule

means a schedule setting out:

- the actual capital or expected capitalised receipts achieved in respect of the Residential Units, and other revenue-generating elements of the Development that have been sold or let as at the Relevant Date; or

- the independently estimated Market Value of any Residential Unit, and other revenue-generating elements of the Development that are yet to be sold or let,
- in each case clearly identifying the value of discounts, incentives or allowances allowed by the Owner in respect of each such Residential Unit, and other revenue-generating elements of the Development (as the case may be) together with a schedule setting out all rental income generated from the Development either as interim total amounts prior to lettings or receivable or estimated rents receivable capitalised using an appropriate commercial all-risks yield rate;

Due Date

means the date when a Contribution or sum of money (or any part of it) is required to be paid to the Council in accordance with the terms of this Agreement;

Effective Date

means the date of this Agreement;

Employment and Skills Measures and Provisions

means a reasonable range of employment skills and training measures to be developed by the Council and the Partner Organisation to mitigate the impacts of the Development by ensuring that Local Labour have better access to employment opportunities available at the construction stage of the Development in accordance with the Employment Skills and Training SPD;

Employment Skills and Training SPD

means the Employment Skills and Training Supplementary Planning Document as adopted by the Council on 15 April 2013;

Expert

means the person appointed in accordance with clause 20.1;

Finance Costs

means reasonable, competitive, market-based finance costs and interest paid on loans or other monies to finance or fund the Development;

Gross Development Value

means the aggregate of the following:

- a) the consideration received on the Transfer of each of the Residential Units (if any);
- b) in the case of any Residential Unit that has not been Transferred at the Relevant Date, the estimated Market Value of each such Residential Unit;

- d) in respect of the Transfer or letting of the Residential Units and other revenue-generating elements of the Development by way of a part exchange or by way of a swap, the full value of the unit Transferred or let without deduction for the property taken in part exchange;
- e) in respect of the Transfer or letting of a Residential Unit by way of a shared equity scheme, the full amount of the premium payable together with the up to date Market Value of any residual interest of the Owner in such Residential Unit;
- f) any other income received by the Owner from any uses (including temporary uses) within the Development PROVIDED THAT all associated costs including but not limited to operational expenditure, empty property rates and statutory compensation are taken into account;
- g) all non-repayable sums received from or through third parties in relation to the Development including (without limitation) government relief, grants, incentives, public subsidy and/ or tax opportunities;
- h) the value of any overage or other performance-related payment attributable to any Transfer or letting received by or, on behalf (or as agent) of, the Owner (or a third party on its behalf);
- i) all other actual sale proceeds, capital payments and receipts paid to, or received by, the Owner (or by others on its behalf) after the date of this Agreement in respect of any Transfer, letting and/or Deemed Disposal;
- j) any rental income from the Appeal Land net of reasonable operational expenditure and incentive that is received by the Owner in respect of existing tenancy agreements after Commencement which is not directly related to the Development; and
- k) any compensation, damages, interest or other payment or sum of whatever nature not otherwise provided for in this definition received by or, on behalf (or as agent) of, the Owner (or a third party on its behalf) for any purpose whatsoever in respect of the Development;

as at the Relevant Date PROVIDED THAT all such sale proceeds, capital payments receipts and other income shall only be taken into account once when calculating the Gross Development Value;

Index

means the Retail Price Index issued by the Office for National Statistics (including any index that replaces it from time to time);

Index Linked

means that the amount of each Contribution payable under this Agreement and any other sum referred to in this Agreement shall be increased by an amount equivalent to the increase in the Index from the Effective Date until the Due Date;

Local Area

means the Council's administrative area;

Local Labour

means workers living within the Local Area or within a radius of 16 kilometres from the boundary of the Local Area;

Market Value

has the meaning given in the Red Book;

Monitoring Fee

means the sum of EIGHT HUNDRED POUNDS (£800.00) as a contribution towards the Council's costs of monitoring the provisions of this Agreement;

Occupation

means the first beneficial occupation of a Residential Unit for residential purposes following Commencement of the Planning Permission but not including occupation by personnel engaged in construction or fitting out, or occupation for marketing and display, or occupation in relation to security operations and "Occupied" shall be construed accordingly;

Owner's Profit

means a sum of money equal to Seventeen point five percent (17.5%) of the Gross Development Value of the Development;

Open Book Basis

means all sales lettings income and receipts together with architect certificates and independently verified cost schedules together with if necessary books of account vouchers receipts invoices orders contractual documentation and other documentation relating to the carrying out and operation and management of the Development which shall be open to inspection by the Council;

Open Market Value

means the price at which the sale of the relevant freehold or long leasehold interest with vacant possession would have been completed unconditionally for cash consideration on the date of valuation assuming:

- a willing seller and a willing buyer;
- that the sale is an arm's-length transaction;
- that prior to the date of valuation there had been a reasonable period (having regard to the nature of the Residential Unit and the state of the market) for the proper marketing of the interest for agreement of the price and terms and for the completion of the sale;
- that the state of the market level of values and other circumstances were on an earlier assumed date of exchange of contracts the same as on the date of valuation;
- that no account is taken of any additional bid by a prospective purchaser with a special interest; and

that both parties to the transaction had acted knowledgeably prudently and without compulsion

Partner Organisation

means the economic development company Reading UK CIC (Co. Registration No. 5671172) trading as Reading's Economy & Destination Agency (REDA) mandated by the Council and the Reading 2021 Local Strategic Partnership to lead on economic development (Memorandum of Understanding dated 5 February 2008) whose registered office is at Thames Tower, Station Road, Reading, Berkshire, England, RG1 1LX or any successor or similar organisation or organisations having similar objectives to Reading UK CIC and nominated by the Council in writing to the Owner (or nominated in writing by the Owner to the Council and approved in writing by the Council) from time to time as the partner organisation for the purposes of an Approved Construction ESP;

Planning Permission

means planning permission for the Development granted by the Inspector pursuant to the Appeal;

Practical Completion

means complete in all material respects such that it is fit for its intended purpose and available for use and Practically Completed shall be construed accordingly;

Red Book

means the RICS Valuation – Global Standards (incorporating the IVSC International Valuation Standards) effective from 31 January 2022 together, where applicable, with the UK National Supplement effective 14 January 2019;

Relevant Date

means the date when the relevant Updated Viability Appraisal is submitted to the Council in accordance with this Agreement;

Residential Unit

means a residential unit within Use Class C3 of Part A of Schedule 2 to the Town and Country Planning (Use Classes) Order 1987 comprised in the Development (and “Residential Units” shall be construed accordingly);

Sales Value

means the actual capital receipt achieved in respect of a Residential Unit that has been sold for Open Market Value or the independently estimated Open Market Value of any Residential Unit not sold or to be sold and clearly identifying the value of discounts incentives or allowances allowed by the Owner in respect of each such Residential Unit

Secretary of State

means the Secretary of State for the Department for Levelling Up, Housing and Communities (or any successor body)

Sham Transaction

means:

- (a) a transaction the effect of which is to reduce the sale proceeds capital payments receipts and any other income associated with the calculation of the Sale Value or
- (b) a disposal of a Residential Unit that is not an arms length third party bona fide transaction which may (inter alia) include transactions between the Owner and subsidiary companies of the Owner or transactions between the Owner and their employees or transactions involving loans from the Owner or other forms of deferred consideration or transactions involving other property not comprised in the Development

Standard Assessment Procedure Review

means a review using the Government’s Standard Assessment Procedure for energy rating of dwellings in accordance with the Council’s Sustainable Design & Construction SPD;

Statutory Consents

means any statutory approvals consents or licences or permissions required from any local or competent authority to enable the Owner to carry out and complete the Development

Supporting Evidence

means the following:

- (a) for any costs actually incurred at the Trigger Date, receipted invoices or other evidence of payment or staged payment and those on an Open Book Basis certified by the Owner's quantity surveyor or costs consultant or other professional and the Owner shall use reasonable endeavours to secure that such person provides an express duty of care to the Council;
- (b) for any costs yet to be incurred at the Trigger Date the up to date best estimate of such costs by the Owner or where available by the Owner's quantity surveyor or costs consultant or other professional and the Owner shall use reasonable endeavours to secure that such person provides an express duty of care to the Council;
- (c) for sale proceeds and all other monies and/or income received at the Trigger Date the Disposal Schedule together with certified copies of sale/letting contracts or completion statements by the Owner's solicitor and the Owner shall use reasonable endeavours to secure that such person provides an express duty of care to the Council; and
- (d) in relation to any Residential Unit or other revenue-generating element which is unsold or unlet and/or any element which remains vacant or not let at the Trigger Date, then an independently obtained independent 'Red Book' valuation of the Market Value provided on an Open Book Basis of the relevant Residential Unit(s) and/or other revenue-generating element (as the case may be);

Surplus

means the sum that is fifty percent (50%) of the figure that equates to the Gross Development Value less:

- (a) the Build Costs; and
- (b) the Owner's Profit; and
- (c) the Benchmark Land Value;

PROVIDED THAT the sum shall not exceed the Deferred Contribution Cap;

Transfer

means:

- (a) the completion of the transfer of the freehold interest; or
- (a) the grant of a leasehold interest (for a term of not less than one hundred and twenty five (125) years),

and for the avoidance of doubt Transfer shall not mean the exchange of contracts (and Transferred shall be construed accordingly);

Trigger Date

means the date when seventy five percent (75%) of the Residential Units have been Practically Completed;

Target Emission Rate

means the "Target Co2 Emission Rate" as set out in the 2013 Building Regulations or such other rate as may be agreed with the Council in writing;

Updated Viability Appraisal

means a viability appraisal in respect of the Development which shall be carried out in accordance with all relevant published industry, professional and government guidance in relation to viability by an individual who is a professional member of the Royal Institution of Chartered Surveyors and to be presented in 'Argus developer' format or similar format as approved by the Council in order to assess whether there is a Surplus as at the Relevant Date to be used towards payment of a Deferred Contribution (as the case may be) in accordance with the terms of this Agreement and which shall include an updated calculation of the Deferred Contribution Cap;

Working Days

means any day (other than Saturdays Sundays or public holidays in England) when banks in London are open for business;

2 Interpretation

- 2.1 Clause headings paragraphs and headings shall not affect the interpretation of this Agreement.
- 2.2 A person includes a natural person corporate or unincorporated body (whether or not having separate legal personality).
- 2.3 A reference to a company shall include any company, corporation or other body corporate wherever and however incorporated or established.

- 2.4 Unless the context otherwise requires words in the singular shall include the plural and in the plural shall include the singular.
- 2.5 Unless the context otherwise requires a reference to one gender shall include a reference to the other genders.
- 2.6 A reference to any Owner shall include that Owner's successors in title and assigns and personal representatives.
- 2.7 References in this Agreement to the Council shall include any successor to its functions as the local planning authority in relation to the Appeal Land and any body to which all or part of its functions may lawfully have been transferred.
- 2.8 An obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done and an obligation on a person to do something includes an obligation to procure that thing to be done.
- 2.9 Where an obligation falls to be performed by more than one person the obligation can be enforced against every person so bound jointly and against each of them individually.
- 2.10 Any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 2.11 Save as specified to the contrary any reference to Act of Parliament whether general or specific shall include any modification or re-enactment thereof for the time being in force and shall also include all instruments, orders, plans, regulations, by-laws and directions for the time being made issued or given thereunder or deriving validity therefrom.
- 2.12 A reference to writing or written does not include faxes or e-mail.
- 2.13 References to Clauses, Plans, Schedules, Paragraphs and Appendices are to the Clauses, Plans, Schedules, Paragraphs and Appendices of this Agreement.

3 Legal Effect

- 3.1 This Agreement is made pursuant to:
- (a) section 106 of the 1990 Act;
 - (b) section 1 of the Localism Act 2011;
 - (c) section 111 of the Local Government Act 1972; and
 - (d) all other enabling powers,

with an intent to bind the Owner's interest in the Appeal Land (and each and every part of it) subject to the provisions of Clauses 4 (conditionality), 5 (the Owner's obligations), 8 (lapse) and 11 (release).

3.2 This Agreement is a planning obligation within the meaning of section 106 of the 1990 Act and the obligations contained within it shall, subject to the provisions of the Agreement, be enforceable by the Council against the Owner (including its successors in title and those deriving title from the Owner).

3.3 This Agreement is without prejudice to and shall not be construed as derogating from any of the rights, powers and duties of the Council pursuant to any of its statutory functions nor in any other capacity.

4 Conditionality

4.1 Unless otherwise required in order to give legal effect to any provision in this Agreement, this Agreement is conditional upon:

1. the grant of the Planning Permission; and
2. the Commencement of the Development,

save for Clause 7 which shall come into effect upon the Effective Date.

5 Owner's Obligations

5.1 The Owner covenants with the Council, so as to bind the entirety of its interest in the Appeal Land, to comply with the restrictions, covenants and requirements set out in Schedules 1 – 3 of this Agreement.

5.2 The Owner covenants with the Council:

- a) not to Commence unless and until it has served a Commencement Notice at least 10 Working Days prior to Commencement of any part of the Development;
- b) to notify the Council of the intended Trigger Date at least 10 Working Days before such occurrence;
- c) not to encumber nor deal with the Appeal Land (or any part of it) in any manner pursuant to which the Owner may be prevented from carrying out its covenants and obligations contained in this Agreement;

6 Fees

The Owner covenants with the Council to pay prior to the Effective Date:

- (a) the Council's reasonable legal costs in the sum of £3500 (THREE THOUSAND FIVE HUNDRED POUNDS) and expenses incurred in the preparation, negotiation and completion of this Agreement; and
- (b) the Monitoring Fee.

7 Lapse / Determination

- 7.1 The obligations in this Agreement shall cease to have effect (insofar only as they have not already been complied with) if the Planning Permission is quashed, revoked or modified (without the consent of the Owner) or is withdrawn or expires prior to Commencement of the Development.
- 7.2 the Inspector dismisses the Appeal and (if applicable) such dismissal is later upheld following statutory challenge or redetermination following a successful statutory challenge then in such event this Agreement shall cease to be enforceable and shall determine absolutely

8 Future Development

Nothing in this Agreement shall be construed as prohibiting or limiting any right to develop any part of the Appeal Land in accordance with a planning permission (other than the Planning Permission) that is granted (whether or not on appeal) after the date of this Agreement.

9 Statutory Undertakers

This Agreement shall not be enforceable against any statutory undertakers (including their successors in title) that shall acquire an interest in the Appeal Land solely for the purpose of providing services to or for the Development or neighbouring developments

10 Release

The Owner shall upon parting:

- (a) with its interest in all or any part of the Appeal Land be released from all obligations and duties under the terms of this Agreement insofar as they relate to, or are binding on, that part of the Appeal Land; and
- (b) with the entirety of its interest in the Appeal Land be released from all liabilities whatsoever under the terms of this Agreement.

The releases provided for in this Clause 11 shall not apply to any prior or existing breach of this Agreement as at the date of disposal.

11 No waiver

No waiver (whether express or implied) by the Council of any breach of or default by the Owner in performing or observing any of the terms of or covenants, obligations or restrictions in this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said terms, covenants, obligations or restrictions or from acting upon any subsequent breach or default in respect of any of them by the Owner.

12 No Fetter on Discretion

Nothing in this Agreement shall fetter or prejudice the Council's statutory rights, powers, discretions and responsibilities under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.

13 Severance

Each clause, sub-clause, schedule or paragraph shall be separate, distinct and several from each other to the extent only that if any clause, sub-clause, schedule or paragraph 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, schedule or paragraph 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, schedule or paragraph contained in this Agreement.

14 Indexation

The amount of each Contribution payable under this Agreement shall be Index Linked.

15 Interest on unpaid monies

- 15.1 If any Contribution due under this Agreement is paid late the Owner shall pay to the Council interest at the rate of four percent (4%) per annum above the base rate of the Bank of England for the time being in force on the sum of the Contribution due or (as the case may be) on any amount of that Contribution which may be outstanding from the date on which the Contribution (or the relevant part of it, as the case may be) is due to be paid in accordance with the terms of this Agreement up to the date of actual payment of the Contribution (or the relevant part of it, as the case may be).

- 15.2 Any interest paid or payable pursuant to Clause 16.1 above shall be deemed to be part of the Contribution or sum due to which such interest relates.

16 Payments to the Council

All Contributions and other sums due to the Council under the terms of this Agreement shall (unless otherwise notified in writing by the Council to the Owner) be paid to the Council as follows:

Reading Borough Council

Sort Code: 30-91-31

Account Number: 00271502

Lloyds Bank plc 24 Broad Street Reading RG1 2BT

Account: Reading Borough Council quoting reference: s106/ 025478/ 221162 or other reference quoted by the Council in the relevant S106 Demand Notice issued in respect of the obligation

No Contribution (save for Legal costs and Monitoring fee) or other sum required under this Agreement (or part of it) shall be paid to the Council earlier than eight (8) weeks before the Due Date.

17 Notice

- i. Any notice or other written communication to be served by one party upon another pursuant to the terms of this Agreement shall be deemed to have been validly served if delivered by hand to the Planning, Transport and Public Protection Services team or sent by pre-paid registered or recorded delivery post to the party to be served at its address herein specified or such other address as may from time to time be notified for the purpose by notice in writing and any such notice or other written communication to be given by the Council shall be deemed valid and effectual if on its face it is signed on behalf of the Council by a duly authorised signatory.
- ii. The Owner shall ensure that any notice or other written communication that is required to be served on the Partner Organisation pursuant to this Agreement shall be copied to the Council at the same time.

18 Consents and Approvals

In this Agreement where the agreement, approval, consent or any other expression of satisfaction is required from the Council that Agreement, Approval, consent or any other expression of satisfaction shall be given in writing and shall not be unreasonably withheld or delayed.

19 Dispute Resolution

- 19.1 In the event of any dispute arising in respect of this Agreement the parties may at any time require by notice in writing to the other an independent expert (the **Expert**) to resolve the dispute in accordance with the provisions of this Clause 21 and as follows:
- (a) in the case of a dispute regarding the interpretation or meaning of any provision in this Agreement to leading planning counsel to be agreed between the Parties, or failing Agreement, to be appointed by the President for the time being of the Law Society;
 - (b) in the case of a dispute regarding physical works or other technical matters referred to in the Schedules to a member of the Institution of Civil Engineers to be agreed between the Parties, or failing Agreement, to be appointed by the President for the time being of such Institution; or
 - (c) in the case of any other dispute regarding this Agreement to a member of the Royal Institution of Chartered Surveyors to be agreed between the Parties, or failing Agreement, to be appointed by the President for the time being of such Institution.
- 19.2 The Expert shall have no less than ten (10) years' experience of resolving disputes similar in nature to the one that is proposed to be referred pursuant to this Clause.
- 19.3 The Expert shall be appointed within one (1) month of an application being made by one of the Parties.
- 19.4 The Expert shall be entitled to invite written representations from each of the Parties.
- 19.5 The Expert shall act as an expert and not as an arbitrator.
- 19.6 The costs of the dispute shall be payable by the Parties in such proportion as may be determined by the Expert and failing such determination to be borne in equal shares by the Parties.
- 19.7 The decision of the Expert shall be final and binding on the Parties save in the case of manifest and material error.

19.8 The Expert shall be appointed subject to an express requirement that he reaches his decision and communicates it to the Parties within the minimum practical timescales allowing for the nature and complexity of the dispute and in any event not more than twenty (20) Working Days from the date of his appointment to act.

19.9 Nothing in Clauses 21.1 – 21.8 shall be construed as removing the jurisdiction of the courts to enforce the provisions of this Agreement.

20 **Future Section 73 Permission(s)**

20.1 In the event that any new planning permission(s) in respect of the Development is or are granted by the Council pursuant to section 73 of the 1990 Act (Future S73 Permissions) and unless otherwise agreed between the parties with effect from the date that the new planning permission is granted pursuant to section 73 of the 1990 Act:

(a) the obligations in this Agreement shall (in addition to continuing to bind the Appeal Land in respect of the Planning Permission) relate to and bind the Appeal Land in respect of development pursuant to that Future S73 Permission(s); and

(b) the definitions of Application, Development and Planning Permission shall be construed to include reference to any application for that Future S73 Permission(s), the Future S73 Permission(s) granted pursuant to that application and the development permitted by that Future S73 Permission(s); and

(c) this Agreement shall be endorsed with the following words in respect of that Future S73 Permission(s) (with the blank spaces completed with the reference number and date of issue of the relevant Future S73 Permission(s)):

'The obligations in this Agreement relate to and bind the Appeal Land in respect of development pursuant to a new planning permission reference [] granted on [] 20[] pursuant to section 73 of the Town and Country Planning Act 1990 (as amended).'

PROVIDED THAT nothing in this Clause shall fetter the general discretion of the Council in determining any application(s) under section 73 of the 1990 Act including a requirement for a new Agreement or a supplemental Agreement to be entered into pursuant to section 106 and/or section 106A of the 1990 Act before that application is determined by the Council.

21 **Mortgagee**

The Mortgagee acknowledges and declares that this Agreement has been entered into by the Owner with its consent and that the security of its charge over the Appeal Land shall take effect subject to this Agreement PROVIDED THAT the Mortgagee or any future

mortgagee or chargee shall have no liability under this Agreement unless it takes possession of the Appeal Land or any part of it in which case it shall be deemed to be a successor in title to the Owner.

22 Third Party Rights

22.1 Unless the right of enforcement is expressly granted and except in relation to:

- (a) any successor bodies of the Council; and
- (b) any successors in title of and those deriving title under the Owner,

it is not intended that a third party should have the right to enforce a provision of this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999.

22.2 This Agreement may be rescinded or varied without the consent of a third party to whom an express right to enforce any of its terms has been provided.

23 Local Land Charge

This Agreement is and shall be registered as a local land charge.

24 Change of Ownership

The Owner shall provide the Council with written notice of any change in ownership of its interest in the Appeal Land before all the obligations under this Agreement have been discharged within ten (10) Working Days of any such change occurring PROVIDED THAT such written notice shall include details of the name and address of the current and new owner of such interest(s) together with details of that part of the Appeal Land to which each of their interests apply.

25 Jurisdiction

This Agreement is governed by and interpreted in accordance with the law of England.

26 Regulation 122

If, in relation to any of the obligations contained in Schedule 1, Schedule 2 and Schedule 3, the Inspector (or Secretary of State as the case may be) in determining the Appeal states in their decision that the obligation does not comply with all of the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (such that it does not constitute a reason for granting planning permission or shall not be accorded any weight) then that obligation or those obligations shall not apply and shall be unenforceable.

In witness whereof the parties have executed this Agreement as a Deed the day and year first above written.

SCHEDULE 1

The Affordable Housing Deferred Contribution

Viability Review

The Owner covenants with the Council as follows:

LATE STAGE REVIEW

- 1.1. No earlier than the Trigger Date and no later than twenty (20) Working Days after the Trigger Date, the Owner shall submit an Updated Viability Appraisal and Supporting Evidence on an Open Book Basis to the Council for approval PROVIDED THAT the Owner shall pay the Council's reasonable costs that are properly incurred in commissioning an independent review of the Updated Viability Appraisal if the Council considers it necessary to do so in order to properly assess the Updated Viability Appraisal.
- 1.2. No later than twenty (20) Working Days after receipt of the Updated Viability Appraisal pursuant to Paragraph 1.1 of this Schedule 1, the Council shall notify the Owner of any further information it reasonably requires to determine whether the Updated Viability Appraisal can be approved.
- 1.3. The Owner shall provide any further information that is reasonably required by the Council pursuant to Paragraph 1.2 of this Schedule 1, no later than twenty (20) Working Days following notification from the Council under Paragraph 1.2 of this Schedule 1 PROVIDED THAT this process shall continue until the Council is satisfied that it has sufficient information to properly determine the Updated Viability Appraisal and confirms in writing that it accepts the Updated Viability Appraisal submission .
- 1.4. If the Council has not approved in writing the Updated Viability Appraisal within thirty (30) Working Days (or such longer period as is agreed between the Owner and the Council), of its submission to (and acceptance by) the Council pursuant to Paragraphs 1.1 and 1.3 of this Schedule 1 (or such longer period as is agreed between the Owner and the Council), either party may refer the Updated Viability Appraisal to be determined by an Expert pursuant to Clause 18 of this Agreement.

2. LATE STAGE REVIEW – PAYMENT OF A DEFERRED CONTRIBUTION

- 2.1. Where the Updated Viability Appraisal, as approved in writing by the Council or the Expert (as the case may be) pursuant to Paragraph 1.1 of this Schedule 1, identifies a Surplus, the Owner shall pay the Deferred Contribution to the Council prior to Occupation of more than ninety percent (90%) of the Residential Units.
- 2.2. The Owner shall not Occupy (or permit to be Occupied) more than ninety percent (90%) of the Residential Units unless and until the Deferred Contribution has been paid in full to the Council in accordance with Paragraph 2.1 of this Schedule 1.
- 2.3. In the event of late payment under Paragraphs 2.1 of this Schedule 1, the Owner shall also be required to pay to the Council interest on the Deferred Contribution from the date on which the Deferred Contribution falls due to the date on which it is paid.

SCHEDULE 2

Carbon Offsetting

1. The Owner covenants as follows:
 - 1.1 following Practical Completion of each Residential Unit to carry out a Standard Assessment Procedure Review, which shall be paid for by the Owner and carried out by an independent assessor accredited to carry out Standard Assessment Procedure Reviews;
 - 1.2 following Practical Completion of the final Residential Unit to submit to the Council for approval all of the Standard Assessment Procedure Reviews carried out under in accordance with paragraph 1.1 of this Schedule 2 together with a schedule of air permeability tests for each Residential Unit to demonstrate that each Residential Unit achieves a minimum of thirty-five per cent (35%) improvement in regulated emissions over the Target Emission Rate (the "As-Built Assessment");
 - 1.3 to pay the Carbon Off-Setting Contribution (as Index Linked) calculated in accordance with paragraph 1.4 of this Schedule 2 to the Council within twenty (20) Working Days of being notified by the Council in writing of its approval of the As-Built Assessment.
 - 1.4 The following calculation shall be used to determine the Carbon Off-Setting Contribution:

$$\text{Target Emission Rate} - (35\% \text{ CO}_2/\text{m}^2/\text{yr}) = (65\% \text{ CO}_2/\text{m}^2/\text{yr})$$

As detailed in the 2013 Building Regulations	Required on-site improvement over 2013 Building Regulations	offset through a Section 106 contribution
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SCHEDULE 3

The Construction Employment and Skills Contribution

1. The Owner covenants with the Council as follows:
 - 1.1 to pay the Employment Skills and Training Contribution to the Council prior to Commencement of the Development; and
 - 1.2 not to Commence the Development or permit Commencement of the Development until the Employment Skills and Training Contribution has been paid to the Council in full.

SCHEDULE 4

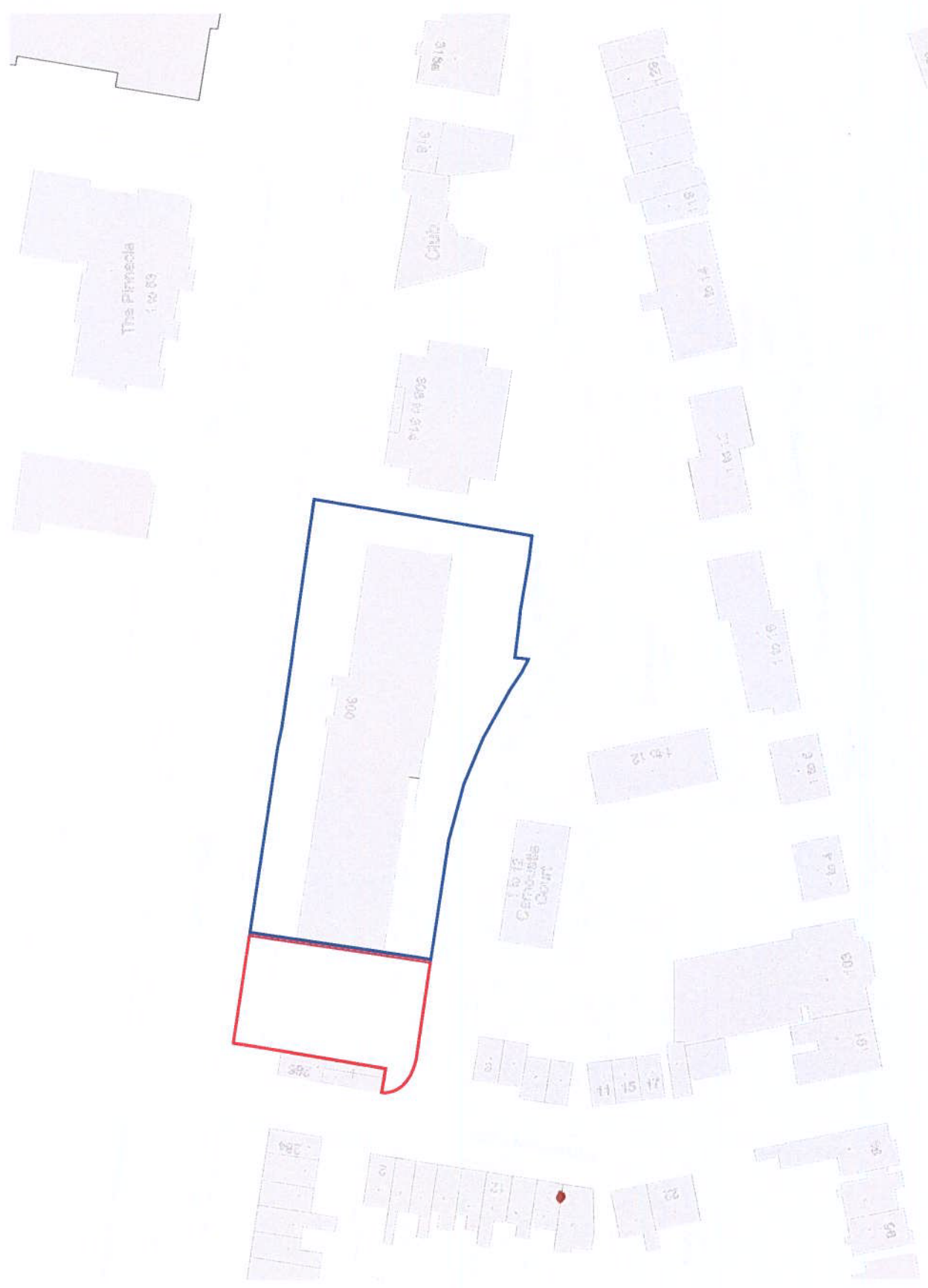
Council's covenants

1. The Council shall use all sums received from the Owner under the terms of this Agreement for the purposes specified in this Agreement for which they are to be paid.
2. The Council shall provide to the Owner such evidence, as the Owner shall reasonably require in order to confirm the expenditure of the sums paid by the Owner under this Agreement.
3. Following receipt of a written request from the person who paid the relevant contribution, to re-pay to that person such Contribution (or part of that Contribution) which has not upon the expiration of 10 years which not been expended, committed, allocated and/or contracted to be expended together with interest on any balance then remaining unspent of the relevant Contribution (or part of that Contribution) at a rate 1% per annum above the base rate of the Bank of England for the time being in force such payment to be made within twenty-eight (28) days of receipt by the Council of the written request PROVIDED THAT:
 - 3.1 any such written request for repayment must be made within six (6) months of the expiration of 10 years; and
 - 3.2 the Council shall not be required to return any part of the Contribution if it does not receive such a request within six (6) months of expiration of the 10 years.
4. If a request for repayment of any Contribution, as specified above, is not received in writing, any remaining Contribution (or part of the Contribution) including any interest on any balance then held by the Council shall be used by the Council for any other purpose identified for any other contribution in this Agreement or for the benefit of the local area in the vicinity of the Development.
5. At the written request of the Owner the Council shall provide written confirmation of the discharge of any of the obligations contained in Schedule 1, Schedule 2 and Schedule 3 when satisfied that such obligations have been performed.
6. Any approval, consent, direction, authority, agreement or action to be given by the Council under this Agreement shall not be unreasonably withheld or delayed.

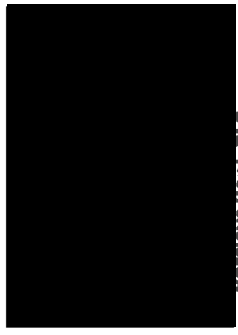
Appendix 1
(Plan)



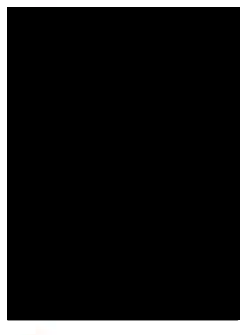
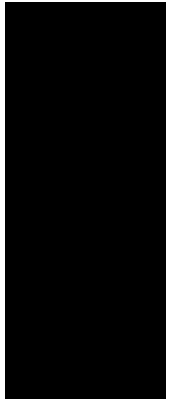
Location Plan - 1:1250@A1



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Barclays Bank PLC
Lending Operations, PO Box 299, Birmingham, B1 3PF



Fatherhood House Reading	
Existing location and block plans	
Planning	
DPB	14/11/21
AS-STAT@A1	
03.02.22	

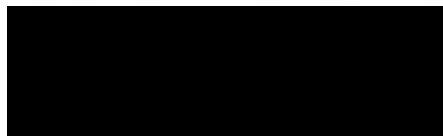


IN WITNESS whereof the Parties have executed this Agreement as a Deed the day and year first above written.

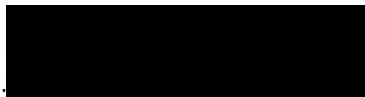
EXECUTED AS A DEED (BUT NOT DELIVERED UNTIL)
UNTIL THE DATE HEREOF))

by **CCL DEVELCO 4 LIMITED**)

acting by _____ a director



in the presence of:



Director

Witness signature:

Witness name: *KAYIECH LANGWIESER*

Witness address: *95 HINTON WOOD AVENUE BUL3 3AJ*

EXECUTED AS A DEED (BUT NOT DELIVERED UNTIL)
UNTIL THE DATE HEREOF))

by **BARCLAYS BANK**

acting by)

Attorney
a director
TSJ

in the presence of:



Director Attorney
TSJ

Witness signature:

CONRAD PREISS

Witness name:

Witness address:

Barclays Bank PLC
Lending Operations, PO Box 299, Birmingham, B1 3PF

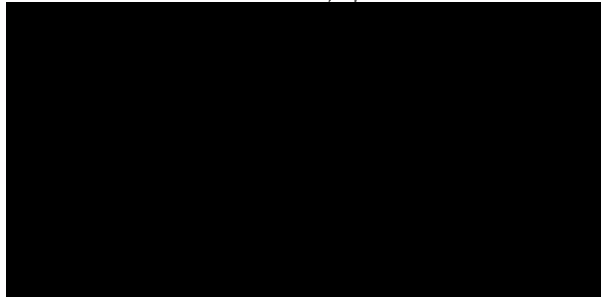
EXECUTED AS A DEED (BUT NOT DELIVERED)

UNTIL THE DATE HEREOF

By affixing the common seal of

READING BOROUGH COUNCIL

in the presence of:



Authorised Signatory

Minute	PAC(4)(a) 24 May 2023
Originator	PT
Seal No.	169/24
Checked	<i>SD</i>

DATED 1 May 2024

CCL DEVELCO 4 LIMITED

and

BARCLAYS BANK

and

READING BOROUGH COUNCIL

SECTION 106 AGREEMENT

constituting a Planning Obligation relating to
Land Adjacent to 300 Kings Road, Reading RG1 4HP

Application Reference No. 221162

Appeal Reference No. APP/E0345/W/23/3335887

Michael Graham LLB(Hons); MBA
Assistant Director of Legal &
Democratic Services
Reading Borough Council
Civic Offices Bridge Street
Reading RG1 2LU
Iken: 025478
S106 No 221162