

DATED

4 August

2017

STEPHEN JOHN ROSE (1)

("the Owner")

and

READING BOROUGH COUNCIL (2)

("the Council")

AGREEMENT

constituting a Planning Obligation relating to land at the rear of 92-96 Southampton
Street, Reading, RG1 2QX

(Planning Application No.160571)

C J Brooks BSc
Head of Legal Services
Reading Borough Council
DX 40124 Reading (Castle Street)
IKEN 5498
SQ (4247)
09/05/17

THIS AGREEMENT is made the

4 August

2017

BETWEEN:

- (1) **STEPHEN JOHN ROSE** of 96 Southampton Street Reading RG1 2QX ("the
"Owner")

and
- (2) **READING BOROUGH COUNCIL** of Civic Offices Bridge Street Reading RG1
2LU ("the Council")

RECITALS

A. Planning Obligation

This Agreement constitutes a planning obligation within the meaning of the term in Section 106 of the 1990 Act

B. Application Land

The Council is the Local Planning Authority for the purposes of the 1990 Act for the Borough of Reading in which the Application Land is situated and is the Authority that can enforce the provisions in this Agreement

C. Land Ownership

The Owner is the freehold owner of the Application Land that is registered at the Land Registry under Title Numbers BK226204 (part of) BK359240 (part of) BK327725 (part of) BK165375 and BK77137 and has an interest in the Application Land within the meaning of the term in Section 106(9) (b) of the 1990 Act

D. Planning Application

The Owner submitted the Application (160571) to the Council for Planning Permission to carry out the Development which was validated on 12th April 2016

E. Planning Permission

The Council and the Owner having regard to the Development Plan and to all other material considerations including the Court of Appeal decision in the case of Secretary for Communities and Local Government and West Berkshire Council and Reading Borough Council (CO/76/2015) consider that Planning Permission should be granted for the Development pursuant to the Application subject to the prior completion of this Agreement

IT IS HEREBY AGREED AND DECLARED between the parties hereto as follows:-

1. DEFINITIONS

The following expressions shall have the under mentioned meanings

1.1 "the 1990 Act"

means the Town and Country Planning Act 1990 (as amended)

1.2 "the Actual Building Costs"

means the actual Building Costs incurred at the Trigger Date

1.3 "Affordable Housing"

means social rented housing affordable rented housing and intermediate housing as defined in Annex 2 of the National Planning Policy Framework published on 27th March 2012 or any subsequent definition in any revision amendment or re-enactment thereof published by the U K Government

1.4 "the Affordable Off Site Housing Contribution"

means the sum of FIFTY THOUSAND POUNDS (£50,000.00) which is to be provided towards the provision of Affordable Housing by the Council within the Borough as Affordable Housing is not being provided by the Owner on the Application Land

1.5 "this Agreement"

means this planning obligation by agreement and any modification thereof approved by the Council pursuant to the powers in Section 106 and Section 106A of the 1990 Act

1.6 "Any Other Costs"

means any other cost properly directly and reasonably incurred by the Owner as would be expected in the open market and evidenced as part of the submitted Deferred Affordable Housing Contribution Appraisal in connection with the Development

1.7 "Application"

means the application seeking Planning Permission to carry out the Development submitted on behalf of the Owner to the Council and registered by the Council under reference number 160571

1.8 "Application Land"

means the land at the rear of 92-96 Southampton Street Reading RG1 2QX as described in the First Schedule hereto and shown edged red on the Plan at Annexure 1

1.9 "Building Contract"

means the contract(s) for the carrying out of the Building Works to be entered into by the Owner

1.10 "Building Costs"

shall mean all of the following costs reasonably and properly incurred in carrying out the Development on the Application Land incurred after the date of this Agreement:-

- (a) The actual costs of carrying out the Building Works under the Building Contract as certified by the Contract Supervisor; and
- (b) Developer Preliminaries; and

- (c) a maximum contingency of five per cent (5%) of the costs incurred in Paragraph (a) in this definition of Building Costs excluding Developer Preliminaries; and
- (d) the Building Contractors overheads and profits as reflective of prevailing market rates; and
- (e) the fees of solicitors planning consultants architects (including landscape architects) quantity surveyors building surveyors structural engineers mechanical and electrical engineers construction engineers the employer's agent any project monitor CDM co-ordinators any other reasonably anticipated professional fees and disbursements incurred in obtaining Planning Permission including the costs of entering into this Agreement and any fees and charges payable for planning and building regulation approval any National Building Council or analogous application and any inspection fees and any statutory based fees and charges payable to any statutory undertakers; and
- (f) the planning costs associated with any modifications to the Development; and
- (g) the cost of obtaining any Statutory Consents including all fees incurred for obtaining Statutory Consents and any other fees and contributions payable to any public or other authority and any payments due under any planning agreement (including this Agreement) entered into in order to obtain the relevant Statutory Consents; and
- (h) the cost of diversion of existing supplies and services and the installation and connection of new supplies (including foul and surface water drainage gas water and electricity supplies and telecommunications); and
- (i) provided that the Development proceeds without unreasonable delay the costs incurred in insuring the Development and all third party and any other necessary insurance and the periodic cost of valuation for income purposes on usual terms; and
- (j) rates including sums payable pursuant to any statute or byelaw rents and value added tax where the same is not recoverable or not zero rated; and

- (k) costs of carrying out appropriate environmental surveys and monitoring and any other site investigations

1.11 “Building Works”

means the works of and in connection with the carrying out of the Development and includes (unless the context otherwise requires) all site clearance work site preparation works and fitting out of the New Dwellings to a standard required for a capital disposal on the open market

1.12 “Contract Supervisor”

means the person appointed by the Owner under the Building Contract to supervise the Building Works

1.13 “Contributions”

means the Affordable Off Site Housing Contribution and the Deferred Affordable Housing Contribution

1.14 “Costs”

means the aggregate of the Final Building Costs Finance Costs Land Costs Sales Costs Planning Costs and Guaranteed Developer’s Profit

1.15 “Deemed Disposal”

means a deemed transfer of the freehold interest or grant of a long leasehold estate or interest in a New Dwelling at Open Market Value where the Owner does not dispose of the New Dwelling but lets it out or otherwise permits Occupation of the said New Dwelling

1.16 “the Deferred Affordable Housing Contribution”

means the sums calculated in accordance with the following formula:-

Net Profit

(divided by) 2

As per the worked example included at Appendix 3 to be paid to and applied by the Council to the provision of Affordable Housing in the Borough which is not being provided by the Owner on the Application Land and which shall be up to the Maximum Sum

1.17 "the Deferred Affordable Housing Contribution Appraisal"

means the format for reporting the breakdown of the Gross Proceeds of Sale the Costs the Net Profit and the Guaranteed Developer's Profit at the Trigger Date set out at Annexure 3

1.18 "Developer Preliminaries"

means the actual ongoing running costs incurred in the construction of the Development to include scaffolding site and project management and staff plant tools site services site storage security insurance and welfare subject to a maximum of 15 per cent (15%) of the costs incurred in Paragraph (a) in the definition of Building Costs

1.19 "Development"

means the development of the Application Land comprising the erection of a building containing 7 dwellings to the rear of 92-96 Southampton Street including altered access off Pell Street and landscaping/listed building consent for works to the boundary wall to number 92 along Pell Street

1.20 "Disposal"

means the transfer of the freehold interest or the grant of a long leasehold estate or interest in a New Dwelling and for the avoidance of doubt Disposal shall not mean the exchange of contracts and "dispose" and "disposed of" shall be construed accordingly

1.21 "Effective Date"

means the date of this Agreement

1.22 "the Estimated Final Building Costs"

means the sum representing the estimated Building Costs after the Trigger Date exclusive of value added tax save where value added tax is not recoverable in which case it shall be included as set out in the Deferred Affordable Housing Contribution Appraisal

1.23 "Final Account"

means a detailed final account statement including a full breakdown of all elements therein agreed between the Owner and the Contract Supervisor under the Building Contract

1.24 "the Final Building Costs"

means the aggregate of the Actual Building Costs and the Estimated Final Building Costs exclusive of value added tax

1.25 "Finance Costs"

means the cost of finance for acquiring the Application Land, obtaining the Planning Permission and carrying out the Development including interest charges and financial charges arrangement fees commitment fees and similar costs and the redemption fees on competitive terms or terms that are reasonably obtainable and where any funding is provided by the Owner from its own resources notional interest at the interest rate at which the Owner is able to secure loan finance

1.26 "Gross Proceeds of Sale"

means the actual long leasehold or freehold revenue and independently confirmed estimated revenue of each Disposal together with all other actual sale proceeds capital payments and receipts paid to or received by the Owner or by others on his behalf after the date of this Agreement in respect of any Disposal (and in the case of a Deemed Disposal the Open Market Value) including in each case (but not limiting the generality of the foregoing) any income or receipt generated by the Owner from:-

- (i) all rents licence fees and other sums received by the Owner from any licensee or occupier or any proposed licensee or occupier and

- (ii) any non-repayable sums secured from or through third parties in relation to the Development including government relief grants incentives or tax opportunities and
- (iii) the value of any overage or other performance related payment attributable to any Disposal and
- (vi) 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 his behalf for whatsoever purpose in respect of the Development and
- (vii) the actual or independently estimated capitalised rental value of any ground rents on long leasehold disposals;

together with the independently estimated Open Market Value of any private residential unit to be sold in respect of the Development

1.27 "Guaranteed Developer's Profit"

means a sum that is ten per centum (10%) of any Gross Proceeds of Sale

1.28 "Implementation"

means the carrying out of a "material operation" as defined in Section 56(4) of the 1990 Act save that this definition shall not include any works of demolition site clearance ground investigation site survey works construction of boundary fencing hoardings or compounds decontamination soil investigation and archaeological testing and the laying and diversion of services and service media and "Implement" and "Implemented" shall be construed accordingly

1.29 "Implementation Notice"

means the notice to be served by the Owner upon the Council stating the proposed date of Implementation of the Development

1.30 "Index"

means the Consumer Price Index issued by the Office for National Statistics

provided the Application Land is transferred before 1st Oct 2017 and in the event it is transferred after this date the Council and owner may agree otherwise and in the event of failure to agree the amount shall be determined by 1 person

1.31 "Land Costs"

means the:

- i. cost of acquisition of the Application Land which is agreed between the parties to be £500,000 as representing Open Market Value; and
- ii. all professional and management costs reasonably and properly incurred associated with the entering into of any option agreement on the Application Land and payments thereunder; and
- iii. agents' fees reasonably and properly incurred in connection with acquisition of the Application Land and/or entering into an option agreement over the same; and
- iv. legal fees reasonably and properly incurred in connection with acquisition of the Application Land and/or entering into an option agreement over the same; and
- v. Stamp Duty and Tax incurred in the acquisition of the Application Land

1.32 "Maximum Sum"

means one hundred and sixty thousand pounds £160,000 which reflects the initial provision of only the Affordable Off Site Housing Contribution instead of the expected policy compliant quantum of Affordable Housing within the Development that may have otherwise been provided

1.33 "Monitoring Fee"

means the sum of SEVEN HUNDRED POUNDS (£700.00) to be paid to the Council for the purpose of monitoring the Obligations by the Monitoring Officer as set out in this Agreement

1.34 "Monitoring Officer"

means the Council's Monitoring Officer (within the Council's Directorate of Environment and Neighbourhood Services) as designated by the Council to monitor the Obligations set out in this Agreement

1.35 "Net Profit"

means a positive figure which is more than £0 (zero pounds) where the Gross Proceeds of Sale exceed the Costs

1.36 "New Dwelling"

means any one of the seven (7) new dwellings formed or to be formed in the carrying out of Development pursuant to the Planning Permission

1.37 "Obligations"

means the covenants on behalf of the Owner set out at Clause 5 and the Second Schedule (Deferred Affordable Housing Obligations) and the Third Schedule (Council Obligations) to this Agreement

1.38 "Occupation"

means beneficial occupation of any part of the Development PROVIDED THAT (and it is agreed between the parties hereto that) for the avoidance of doubt occupation for the purposes of construction completion and fitting out shall not constitute "Occupation" and "Occupy" and "Occupied" shall be construed accordingly

1.39 "Occupation Notice"

means the notice to be served by the Owner upon the Council that the Development has been brought into use and is being Occupied

1.40 "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 New Dwelling and the state of the market) for the proper marketing of the interest for the 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;
- that both parties to the transaction had acted knowledgeably prudently and without compulsion; and
- that this Agreement did not bind the interest concerned

1.41 "Plan"

means the plan marked at Annexure 1 illustrating the Application
Land edged red

1.42 "Planning Costs"

means Community Infrastructure Levy under the Community Infrastructure Levy Regulations 2010 (as amended), the sums paid to the Council pursuant to this Agreement (including legal fees incurred in connection with this Agreement) other than the Deferred Affordable Housing Contribution

1.44 "Planning Permission"

means the planning permission to be granted by the Council pursuant to the Application substantially in the form of the draft at Annexure 2 and including any other planning permissions granted under Section 73 of the 1990 Act varying the Development

1.45 "the Prescribed Period"

means the period commencing on the date of receipt by the Council of the whole of the Affordable Housing Contribution and the Deferred Affordable Housing Contribution and expiring at the end of ten full financial years

(ending 31 March) following the financial year in which the payment is received by the Council

1.46 "Sales Costs"

means the fees disbursements and other costs reasonably and properly incurred:

- (a) of selling agents in relation to each New Dwelling; and
- (b) in relation to negotiations of any agreement for sale and sale documentation any agreement for lease and the grant of a lease and any agreements for ground rent; and
- (c) in promotional or marketing costs relating to the letting or sale of any part of the Application Land; and
- (d) of settling claims from or reaching agreement with neighbouring landowners who hold rights that will prevent the Development or whose co-operation is needed or beneficial in respect of the Development; and
- (e) all discounts incentives or allowances allowed by the Owner to any tenant or buyer (including without limitation payment of legal and agents' costs (including irrecoverable VAT) Stamp Duty and all payments for or made towards the provision of carpets curtains and white goods; and
- (f) all legal fees and surveyor's fees and disbursements in relation to the Disposal of the 7th New Dwelling if not covered as part of the Sales Costs; and
- (g) any reasonable property related costs incurred by the Owner in carrying out any extra works at the request of an individual buyer of part of the completed Development over and above the Owners standard specification for that particular New Dwelling which increases the value of the New Dwelling and is not already accounted for as Building Costs; and

(h) any proper legal and marketing and professional costs and other costs incurred by the Owner in acquiring any property at market value by way of part exchange on sale of residential unit; and

(i) estimated costs for (a) - (h) incurred related to sale of the 7th New Dwelling

PROVIDED ALWAYS that all such fees disbursements and other costs shall only be taken into account once when calculating the Costs

1.47 "Sales Schedule"

means a schedule setting out the actual gross sales price achieved in respect of each private residential unit that has been sold or the independently estimated Open Market Value of any private residential unit to be sold and clearly identifying the value of discounts incentives or allowances allowed by the Second Owner in respect of each such private residential unit sale

1.48 "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

1.49 "Supporting Evidence"

means:

(a) for Costs actually incurred at the time the Deferred Affordable Housing Contribution Appraisal is carried out (the "relevant time");

(b) receipted invoices or other evidence of payment;

(c) costs certified by the Owner's quantity surveyor or cost consultant or other professional (subject to such person expressly owing a duty of care to the Council);

(d) for Costs yet to be incurred at the relevant time, the up to date best estimate of such costs by the Owner or where available by the Owner's quantity surveyor or costs consultant (subject to such person expressly owing a duty of care to the Council);

(e) for sale proceeds and other monies received by the relevant time, certified copies of sale contracts or completion statements by the Owner's solicitor addressed to the Council confirming in giving such confirmation that a duty of care is owed to the Council;

(f) in relation to any New Dwelling which are/is unsold at the relevant time, then such independently obtained estimates from 3 local reputable firms of Estate Agents based on sales at the Development already effected, the trend in sale prices and the expected date of sale.

1.50 "the Trigger Date"

means the date which is fifteen (15) Working Days prior to the Disposal or Deemed Disposal of the ^{Sixth} ~~Fifth~~ (6th) New Dwelling

1.51 "Working Days"

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

2. INTERPRETATION

2.1 Clause 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 party shall include that party's personal representatives successors or permitted assigns and in the case of the Council the successors to its respective statutory functions
- 2.7 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
- 2.8 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
- 2.9 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
- 2.10 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
- 2.11 A reference to writing or written does not include faxes or e-mail
- 2.12 A reference to "this Agreement" or to any other agreement or document referred to in this Agreement is a reference to this Agreement or such other document or deed as varied or novated (in each case other than in breach of the provisions of this Agreement) from time to time
- 2.13 References to Clauses Plans Schedules Paragraphs and Annexures are to the Clauses Plans Schedules Paragraphs and Annexures of this Agreement

3. LEGAL EFFECT

- 3.1 This Agreement is made pursuant to Section 106 of the 1990 Act and Section 111 of the Local Government Act 1972 and all other enabling powers to the intent that it shall bind the Owner and his successors in title to each and every part of the Application Land and their assigns
- 3.2 This Agreement shall be enforceable by the Council

- 3.3 If the Planning Permission expires within the meaning of Sections 91 92 or 93 of the 1990 Act or is revoked or otherwise withdrawn or modified by any statutory procedure without the consent of the Owner this Agreement shall cease to have effect (but not so as to avoid any Obligation in this Agreement on the part of the Owner having already been implemented or performed)
- 3.4 Nothing in this Agreement shall be construed as prohibiting or limiting any right to develop any part of the Application Land in accordance with a planning permission (other than the Planning Permission) granted by the Council or by the Secretary of State on appeal or by reference to him after the date of this Agreement
- 3.5 If any provision of this Agreement shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions hereof shall not in any way be deemed thereby to be affected or impaired
- 3.6 The Owner shall in parting with the Application Land or part of the Application Land be released from all liability under the terms of this Agreement (insofar as it is binding on that part of the Application Land to which the breach relates) unless they hold an interest in the Application Land or part of the Application Land in respect of which such breach occurs or held such an interest at the date of the breach
- 3.7 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

Unless the context otherwise requires the Obligations in this Agreement shall come into force on the grant of the Planning Permission and the Implementation of the Development

5. THE OWNER'S OBLIGATIONS

- 5.1 The Owner covenants with the Council as follows:-

- (a) not to Implement the Development before the Owner has served the Implementation Notice
 - (b) to serve an Occupation Notice within five (5) Working Days after a New Dwelling which forms part of the Development has been first Occupied for residential purposes
 - (c) to pay to the Council the Affordable Off Site Housing Contribution (as increased by the Indexation provision in Clause 7) prior to the Occupation of any New Dwelling and shall not Occupy or permit Occupation of any New Dwelling until the said Affordable Off Site Housing Contribution has been paid in full to the Council
 - (d) to observe and perform the obligations on their part contained in the Second Schedule (Deferred Affordable Housing Obligations) to this Agreement
- 5.2 The Owner further covenants with the Council to pay on the Effective Date the Council's reasonable legal costs and expenses incurred in the preparation and completion of this Agreement in the sum of two thousand pounds (£2,000) and the Monitoring Fee

6. **COUNCIL'S OBLIGATIONS**

The Council covenants with the Owner to observe and perform the obligations on its part contained in the Third Schedule

7. **INDEXATION**

The amount of the Contributions payable under the provisions of this Agreement shall be increased by an amount equivalent to the increase in the Index from the Effective Date until the date on which each of the said Contributions are payable

8. **INTEREST ON UNPAID MONIES**

If a Contribution due under this Agreement is paid late the Owner shall pay the Council interest at the rate of 4% per annum above the base rate of the Lloyds Bank PLC for the time being in force on the sum of the said

Contribution due or (as the case may be) on any amount thereof which may be outstanding from the date on which under the terms of this Agreement the Contribution is due up to the date of payment of the said Contribution

9. **PAYMENTS TO THE COUNCIL**

Any Contributions due to the Council under the terms of this Agreement (SAVING AND EXCEPTING for the sums payable to the Council under Clause 5.2) shall be paid to the Council by means of telegraphic transfer 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

quoting ref: Land at rear of 92-96 Southampton St (No.4247)

10. **NOTICES**

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 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

11. **ADDRESSES FOR SERVICE**

The address for any notice or other written communication is for the Council at Civic Offices Bridge Street Reading RG1 2LU and for the Owner at the address specified above or notified

12. ARBITRATION

12.1 In the event of any dispute arising between the parties in respect of this Agreement the dispute shall be referred:-

- (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 or
- (b) in the case of a dispute regarding the 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

12.2 Any referral pursuant to Clause 12.1 may be made on the joint application of the parties or on the application of any party and any such referral shall be construed as a submission to arbitration within the meaning of the Arbitration Act 1996

12.3 The decision of any expert appointed pursuant to Clause 12.1 (the "Expert") shall be final and binding on the parties and whose costs shall be in his award

12.4 The Expert shall be appointed subject to an express requirement that he reaches his decision and communicates it to the parties to the dispute 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

13. THIRD PARTY RIGHTS

It is not otherwise intended that any of the provisions of this Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by anyone other than the parties to this Agreement

14. 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 thereof by the Owner

15. LOCAL LAND CHARGE

This Agreement is and shall be registered as a Local Land Charge by the Council

16. RIGHT OF ACCESS

Without prejudice to the Council's statutory rights of entry the Owner shall permit the Council and its authorised employees and agents upon reasonable written notice to enter the Application Land at all reasonable times for the purpose of verifying whether or not any Obligation arising hereunder has been performed or observed

17. AGREEMENT AND DECLARATION

It is agreed by the Owner and the Council that should the Development the subject of the Planning Permission be varied under a new planning permission granted by the Council under Section 73 of the 1990 Act (the VARIAT Planning Permission) the Obligations in the Agreement shall apply to the said VARIAT Planning Permission

18. JURISDICTION

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

EXECUTED as a deed by the parties hereto and delivered on the date written at the start of this deed

THE FIRST SCHEDULE

(the Application Land)

All that freehold land at the rear of 92-96 Southampton Street Reading RG1 2QX registered at the Land Registry under Title Numbers BK226204 (part of) BK359240 (part of) BK327725 (part of) BK165375 and BK77137 as shown edged red on the Plan at Annexure 1

THE SECOND SCHEDULE

(The Deferred Affordable Housing Contribution)

1. The Owner covenants with the Council to pay to the Council the Deferred Affordable Housing Contribution as increased by the indexation provision in Clause 7 in accordance with the procedures and mechanism described in Paragraphs 2 to 11 (inclusive) below
2. As regards the Deferred Affordable Housing Contribution the Owners will (a) maintain development accounts in a good and efficient manner and in accordance with approved accountancy and good book keeping principles and the accounts are to be made available for inspection by the Council as often as may reasonably be appropriate and (b) permit the Council under Clause 16 to have access to and inspect the Development for the purposes of verifying whether the Trigger Date has occurred
3. The Owner agrees that in making a Disposal the Owner is under a duty to the Council to take steps to (a) use all commercial reasonable endeavours to maximise the Gross Proceeds of Sale from a Disposal and (b) where there is a Deemed Disposal the Deferred Affordable Housing Contribution shall be calculated by substituting Open Market Value of the New Dwelling for the Gross Proceeds of Sale
4. The Owner shall provide to the Council no later than the Trigger Date the Deferred Affordable Housing Contribution Appraisal in accordance with and in the form set out at Annexure 3 which shall confirm whether a Net Profit has been achieved and the calculation of the Deferred Affordable Housing Contribution and shall include evidence of all Costs and Gross Proceeds of Sale including copies of Building Contract Final Accounts Sales Schedule and other Supporting Evidence
5. Upon receipt of the Deferred Affordable Housing Contribution Appraisal the Council may request in writing that the Owner provide further information in order to verify any matter or figure within the Deferred Affordable Housing Contribution Appraisal PROVIDED THAT such written request is served on the Owner within 20 (twenty) Working Days of the date on which the Council receives the said Deferred Affordable Housing Contribution Appraisal

6. In the absence of a request from the Council for further information in accordance with Paragraph 5 above:
 - 6.1 the Owner's calculation of the Deferred Affordable Housing Contribution shall be deemed accepted; and
 - 6.2 the Owner shall pay the Deferred Affordable Housing Contribution to the Council within 20 (twenty) Working Days of the date of the Council's deemed acceptance
7. If a written request for further information is received from the Council in accordance with Paragraph 5 above the Owner shall provide such further information to the Council within 20 (twenty) Working Days of such request
8. The parties shall use their reasonable endeavours to agree the calculation of the Deferred Affordable Housing Contribution but in the event of a dispute either party (acting reasonably) may refer the matter to arbitration in accordance with Clause 12
9. In the event that the calculation of the Deferred Affordable Housing Contribution is agreed between the parties the Owner shall pay the Deferred Affordable Housing Contribution to the Council within 20 (twenty) Working Days of the date of the parties' agreement
10. In the event of a dispute between the parties over the calculation of the Deferred Affordable Housing Contribution the Owner shall pay the Deferred Affordable Housing Contribution to the Council within 20 (twenty) Working Days of the determination made under the provisions of Clause 12
11. In the event of late payment under Paragraphs 6.2 9 or 10 above the Owner shall also be required to pay to the Council interest on the Deferred Affordable Housing Contribution from the date on which the Deferred Affordable Housing Contribution falls due to the date on which it is paid

THE THIRD SCHEDULE

("the Council's Obligations")

1. Not later than five (5) Working Days after the Effective Date the Council will issue the Planning Permission
2. The Council covenants with and undertakes to the Owner that each of the Contributions will be utilised for the purposes specified in the Agreement and for no other purpose
3. 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
4. The Council will re-pay to the person who made the payment of a Contribution under this Agreement such amount of any such payment which has not within the Prescribed Period been expended or contracted to be expended together with interest on any balance then remaining unspent of the relevant Contribution at the rate of one per centum below Lloyds Bank PLC base rate for the time being in force such payment to be made within twenty (20) Working Days of written demand made following the expiry of the Prescribed Period

ANNEXURE 1

("the Plan")

ANNEXURE 2

("the draft Planning Permission")



Reading
Borough Council
Working better with you

**TOWN AND COUNTRY PLANNING ACT 1990
PLANNING AND COMPENSATION ACT 1991
THE TOWN & COUNTRY PLANNING
(DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015**

APPLICATION FOR FULL PLANNING PERMISSION

To: Colony Development Ltd
4 Mount Pleasant Cottages
Brock Hill
Bracknell Road
RG42 6la

Application No: 160571
Application type: Full Planning Approval

Applicant: Colony Development Ltd

READING BOROUGH COUNCIL as Local Planning Authority **GRANT FULL** planning permission for the following development in accordance with the plans and supporting information submitted in connection with this application.

Proposal: The erection of a building containing 7 dwellings to the rear of 92-96 Southampton Street, including altered access off Pell Street and landscaping

At: Rear of 92 - 96 Southampton Street Reading RG1 2QX

Subject to such conditions and for such reasons as may be attached

**OTHER STATUTORY CONSENTS MAY BE REQUIRED
PLEASE READ THE NOTES ISSUED WITH THIS DECISION NOTICE**

Date:

Head of Planning, Development
& Regulatory Services



Reading

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Application At: Rear of 92 - 96 Southampton Street Reading RG1 2QX

Application No: 160571

Application type: Full Planning Approval

CONDITIONS & REASONS

1. The development hereby permitted shall begin no later than three years from the date of this decision.

Reason: to prevent an accumulation of unimplemented planning permissions, and in accordance with Section 91 of the Town & Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan 02-00

Block Plan 02-10-P1

Ground Floor Plan 03-10-P2

First Floor Plan 03-11-P2

Second Floor Plan 03-12-P2

Street Elevation Plans 05-10-P1

Street Elevation Plans 05-11-P2

Reason: because permission is only granted in respect of the development detailed in the approved plans.

3. No development shall take place until the following samples and details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority.

a)Brickwork samples

A separate sample panel of brickwork showing the proposed bricks, method of bonding, colour of mortar and type of pointing to be used for each element of development shall be prepared on site and approved by the Local Planning Authority in writing before the commencement of related work. The development shall only be carried out in accordance with the approved details.

b)Roof materials

No related work shall be undertaken until samples of the roof materials for the development have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out using the approved materials.

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c) Balconies

Typical details of new glass balconies at a scale of 1:10 including materials, finish, colour and method of fixing.

d) Details: Windows and Doors

The following, shall be submitted to and approved in writing by the Council before the relevant part of the work is begun:

- i) Plan, elevation and section drawings, with materials annotated, of new windows and window surrounds at a minimum scale of 1:10; and
- ii) Plan, elevation and section drawings, with materials annotated, of all new doors at a minimum scale of 1:10 with typical surround details at a minimum scale of 1:10.

The development shall be carried out only in accordance with the approved details.

Reason: In the interests of the visual appearance of the building, adjoining Listed Buildings and the area in general.

CORE STRATEGY DOCUMENT (Adopted 2008 & Revised 2015) Policy CS7 (Design and the Public Realm)

4. Construction Management Statements

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted and approved in writing by the local planning authority to provide for:

- (A) The parking of vehicles and site operatives and visitors - to be shown on a Plan not less than 1.500.
- (B) Loading and unloading of plant and materials used in constructing the development - Areas to be shown on a plan not less than 1.500
- (C) Storage of plant and materials used in constructing the development - Areas to be shown on a plan not less than 1.500
- (D) The erection and maintenance of security hoarding / scaffolding if required.
- (E) Wheel washing facilities
- (F) Measures on site to control the deposition of dirt / mud on surrounding roads during construction.

(G) Footpath Closures / Road Closures needed during construction

(H) Traffic Management needed during construction.

(I) Times, routes and means of access into and from the site for construction traffic and delivery vehicles (including the removal of waste from the site and methods of preventing deposition of materials on the public highway).

The approved Construction Method Statement shall be adhered to throughout the development process unless agreed otherwise in writing by the Local Planning Authority.

REASON: In the interests of safety, protecting the amenity of local land uses, neighbouring residents and highway safety in accordance with Core Strategy Policy CS20 and Sites and Detailed Policies document Policy DM12.

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5. Access:

No dwelling shall be occupied until the access has been constructed in accordance with the approved drawing and in compliance with the requirements of the Local Planning Authority for work carried out within the public highway.

Reason: In the interests of road safety in accordance with Core Strategy Policy CS20 and Sites and Detailed Policies document Policy DM12.

6. Vehicle parking in accordance with approved plans

No dwelling shall be occupied until the vehicle parking spaces have been provided in accordance with the approved plan. The spaces shall thereafter be kept available for parking at all times.

Reason: To ensure that the development is provided with adequate parking facilities in order to reduce the likelihood of roadside parking which could be a danger to other road users in accordance with Core Strategy Policy CS24 and Sites and Detailed Policies document Policy DM12.

7. Access closure with reinstatement

The existing access to the site shall be stopped up and abandoned immediately after the new access has been brought into use. The footway(s) and any verge shall be reinstated to the satisfaction of the Local Planning Authority.

Reason: In the interests of road safety and maintenance of the highway in accordance with Core Strategy Policy CS20 and Sites and Detailed Policies document Policy DM12.

8. Bicycle storage

The covered bicycle storage spaces shown on the approved drawings shall be provided and equipped with secure Sheffield cycle stands before occupation of the dwellings to which they relate.

Reason: To encourage travel by sustainable alternatives to driving a motor car in accordance with the Local Planning Authority's approved transport policies in accordance with Core Strategy Policies CS23 and CS24.

9. Bin Stores

Details of the proposed bin stores are to be submitted for the written approval of the Local Planning Authority and thereafter the bin stores provided as approved before occupation of the dwelling intended to use that bin store. The bin stores shall not thereafter be used for any purpose other than bin storage.

Reason: To ensure that adequate provision is made for the storage and collection of refuse in accordance with Core Strategy Policy CS2 and Sites and Detailed Policies document Policy DM12.

10. Parking Permits

The residential units/houses/flats/apartments hereby approved shall not be occupied until the Council has been notified in writing of the full postal address of the units. Such notification shall be addressed to the Council's Planning Manager quoting the

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planning application reference specified in this Decision Notice. Reason: In order that the Council can update its records to ensure that parking permits are not issued to the occupiers of the new residential units/houses/flats/apartments hereby approved, and thus ensure that the development does not harm the existing amenities of the occupiers of neighbouring residential properties by adding to the already high level of on street car parking in the area in accordance with Core Strategy Policy CS24 and Sites and Detailed Policies document Policy DM12.

11. Prior to any agreement being entered into for a new occupation of, or transfer of any interest in, the residential units/houses/flats/apartments hereby approved the prospective occupier/transferee shall be informed of the prohibition on entitlement to a car parking permit. All material utilised for advertising or marketing the residential units/houses/flats/apartments for letting or sale shall make it clear to prospective tenants and occupiers that no parking permit will be issued by the Council to occupiers of the residential units/houses/flats/apartments.

Reason: In order that the prospective occupiers are made aware of the fact that they will not be entitled to an on-street car parking permit, in the interests of the proper management of parking, and to ensure that the development does not harm the existing amenities of the occupiers of neighbouring residential properties by adding to the already high level of on street car parking in the area in accordance with Core Strategy Policy CS24 and Sites and Detailed Policies document Policy DM12

12. The windows in the south-west side elevation and rear elevation above ground floor level which serve bathrooms/toilets in the flatted units shall be obscure glazed and non-opening to parts below 1.7m measured from the respective room's floor level. Reason: To prevent the loss of privacy to adjoining properties.

Sites and Detailed Policies Document DM4: Safeguarding Amenity

13. No works shall commence until the submission and approval of tree protection measures. The approved measures shall be implemented prior to any works on site, including demolition of any structures.

Reason: To ensure the provision of amenity, and biodiversity enhancements, afforded by appropriate landscape design and to comply with Core Strategy Policy CS36, and paragraphs 1, 99 and 109 of the NPPF

14. No works or development shall take place until full details of both hard and soft landscape proposals have been submitted to and approved by the Local Planning Authority. Landscape details shall include:

- Planting plans
- Written specifications (including cultivation and other operations associated with plant and grass establishment)
- Schedules of plants and trees, to include large canopy, native and wildlife friendly species, and species likely to prove adaptable to climate change, noting species, planting sizes and proposed numbers / densities,

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- Details of tree pits
- Implementation timetables
- Biodiversity enhancements, including integral bird boxes (swift bricks or house sparrow terraces) on and around the new buildings
- Specifications for fencing demonstrating how hedgehogs and other wildlife will be able to continue to travel across the site (e.g. fences slightly raised above ground level)
- Above and below ground service routes (ensuring they do not conflict with new or existing planting)
- Permeable hard surfaces

Reason: To ensure the provision of amenity, and biodiversity enhancements, afforded by appropriate landscape design and to comply with Reading's Core Strategy and paragraphs 1, 99 and 109 of the NPPF

15. All hard and soft landscape works shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised Codes of Good Practice. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable agreed with the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.

Reason: To ensure the provision of amenity, and biodiversity enhancements, afforded by appropriate landscape design and to comply with Core Strategy Policy CS36, and paragraphs 1, 99 and 109 of the NPPF

16. Notwithstanding the provisions of Schedule 2, Part 1, Classes A, B, C & E) of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwellings (hereby permitted) shall be carried out (and no building or enclosure shall be erected or installed within the curtilage of the dwellings without express planning permission from the local planning authority.

Reason: In the interests of the living conditions and amenities of neighbouring residential properties and future occupiers of the dwellings.

Sites & Detailed Policies Document Policy DM4: Safeguarding Amenity and DM10: Private and Communal Outdoor Space.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows, dormer windows or doors (other than those expressly authorised by this permission) shall be constructed on the rear and flank

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elevations of the development hereby permitted without express planning permission from the local planning authority.

Reason: In the interests of the privacy of the occupiers of neighbouring properties.
Sites & Detailed Policies Document Policy DM4: Safeguarding Amenity

INFORMATIVES

1. The Council's Highways section should be contacted at 19 Bennet Road, Reading, RG2 0QX, telephone: 0118 937 2138, to agree the access construction details, relocation of the lamp post in consultation with SSE and to grant a licence before any work is carried out within the highway. A formal application should be made allowing at least 4 week's notice to obtain details of underground services on the applicants' behalf.

2. Damage to the highway

The attention of the applicant is drawn to Section 59 of the Highways Act 1980, which enables the Highway Authority to recover expenses due to damage caused by extraordinary traffic.

3. Works affecting the highway

Any works affecting the highway shall be in accordance with Reading Borough's Council's document "Guidance Notes for Activities on the Public Highway within the Borough of Reading". The applicant should be made aware that compliance with this document is mandatory and licences to work on the highway will only be issued if the requirements contained within it are met. A copy can be obtained at <http://www.reading.gov.uk/ltp/General.asp?id=5X9452-A782F664> (within the Transport Strategy area of the Transport Section on the Reading Borough Web Site).

4. The LPA has acted positively and proactively to approve this application within the agreed extended timescale.

5. To protect the amenities of the neighbouring residents, noisy construction, demolition and associated activities should be restricted to between the hours of 08:00hrs to 18:00hrs Mondays to Fridays, and 09:00hrs to 13:00hrs on Saturdays, with no noisy works taking place at any time on Sundays and Bank or Statutory Holidays. There should be no burning of waste on the site. For further information about construction and demolition nuisance law the applicant is referred to: <http://www.reading.gov.uk/residents/environmental-health-and-protection/construction-demolition/>

6. All birds, their nests and eggs, are protected by law. It is a criminal offence (with certain exemptions) to deliberately or recklessly take, damage or destroy the nest of

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any wild bird whilst it is in use or being built. The scrub on the site is likely to be used by nesting birds and any clearance should take place outside the bird nesting season (March - August inclusive) or areas to be cleared should first be checked for bird nests by an appropriately qualified person. If bird nests are found works that could disturb it must stop until any young have fledged the nest. If there is any doubt whether or not birds are nesting in the vegetation expert ecological advice should be sought and or clearance work should not be undertaken until after the end of the nesting season.

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NOTES

APPEALS TO THE SECRETARY OF STATE

If you are aggrieved by the decision of the Council to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, if you want to appeal against the Council's decision on the application you must do so within 28 days of the date of this notice.

If an enforcement notice is served relating to the same or substantially the same land and development as in your application and you want to appeal against the Council's decision on your application, you must do so within 28 days of the date of service of the enforcement notice, or within 6 months (or 12 weeks in the case of a householder appeal) of the date of this notice, whichever period expires earlier.

If the above circumstances do not apply, any appeal must be made within the following time limits.

If this is a householder application and you want to appeal against the Council's decision then you must do so within 12 weeks of the date of this notice. If this is an advertisement application and you want to appeal against your local planning authority's decision then you must do so within 8 weeks of the date of this notice. If you want to appeal against your local planning authority's decision for any other type of application (which is not a householder or advertisement application, or an application for a Certificate of Lawfulness) then you must do so within 6 months of the date of this notice.

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order. In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based their decision on a direction given by him.

Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN, tel. 0303 444 5000, or online at www.planningportal.gov.uk/pcs.

Purchase Notices

If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted. In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Street Naming & Numbering

You must contact Reading Borough Council to:

- Name or number a new development
- Name a new street
- Get addresses for flat conversions
- Name or rename an existing building

Otherwise the following may occur:

- You will not have an official address or postcode. When your property goes through the official process it may be given a different address and Postcode than you are currently using.
- You may have difficulty receiving mail
- You may have problems when buying goods or services such as utilities and telecommunications
- The emergency services may have difficulty locating you.
- You may have problems accessing Council services such as Education, Parking Services and Electoral Registration.

The Council is responsible for assigning house names and numbers and street names. It is also responsible for updating the National Land and Property Gazetteer (NLPG) which is a list of addresses which meet a common standard (BS7666) used throughout the country.

When a new address or change of address is requested, the Council contacts Royal Mail who check the address on behalf of the Emergency Services, assign a postcode and add it to their Postal Address File (PAF). The PAF list is used by many companies and services to check addresses, authenticate transactions and order goods, as well as deliver mail, so it is in your interest for your address to be on that list. Royal Mail will not create an address until requested to do so by the Council.

How to apply:

Email us using streetnamingnumbering@reading.gov.uk

Or telephone us on 0118 9373737

What we need to complete your request:

For new addresses or flat conversions:

- Site layout plan containing plot numbers
- Location plan - No bigger than A3 size (hard copy, PDF, JPEG or AutoCAD) showing the site boundary, including the new development, together with surrounding buildings for reference
- Anticipated completion and occupation dates

For change of address:

- You must be, or have authorisation from, the owner to request a change of address.
- Floor plan of the existing property
- Reason for change

Once created, the Council informs various bodies of your new address including the Emergency Services, Council Tax, Land Registry and utility companies as well as adding it to the National Land and Property Gazetteer.

Please be advised that companies and services using the PAF file only update the addresses monthly, quarterly or even less frequently, therefore it may take a while for your address to be listed in some places. It will, however, appear on the Royal Mail website within a few days once it has been added to the live address file.

Reading Borough Council has no control over the frequency by which other organisations update their address files.

ANNEXURE 3

("Deferred Affordable Housing Contribution Appraisal")

Alexander James Homes Ltd

Pell Street, Reading

Worked Example

1 Gross Proceeds of Sale as set out in the Sales Schedule	2,000,000
<u>Less Costs</u>	
2 Land Costs	550,000
3 Final Building Costs	1,000,000
4 Planning Costs	20,000
5 Sales costs	50,000
6 Finance Costs	50,000
7 Any other costs	25,000
8 Guaranteed developers Profit @ 10% Gross Sales Proceeds	200,000
Total costs	1,895,000
 Net profit	 105,000
 Deferred Affordable Housing Contribution @ 50% of Net Profit	 52,500

SIGNED AS A DEED (but not delivered)

until the date hereof) by the said)

STEPHEN JOHN ROSE in the)

sign here

presence of:-

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I Name:

L. m^r math

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N Address:

12 Hart Street

E

Henley-on-Thames

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Signature:

EXECUTED (BUT NOT DELIVERED)

UNTIL THE DATE HEREOF) by)

the affixing of THE COMMON)

SEAL of READING BOROUGH)

COUNCIL in the presence of:-

Authorised Signatory

Minute	HPDRS 23/8/14
Originator	SQ
Seal No.	188/17
Checked	