

DATED

8th April

2014

- (1) THE COUNCIL OF THE BOROUGH OF
HAVANT
- (2) HAMPSHIRE COUNTY COUNCIL
- (3) SAINSBURY'S SUPERMARKETS LTD

SECOND SUPPLEMENTAL AGREEMENT
made pursuant to Section 106 and 106A of
the Town and Country Planning Act 1990
and relating to land at
Hambleton Road/Aysgarth Road and Aston Road
Hambleton Road
Waterlooville
Hants

DATE:

8th April

2014

PARTIES:

- (1) **COUNCIL OF THE BOROUGH OF HAVANT** of Public Service Plaza Civic Centre Road Havant Hampshire PO9 2AX ("the Council")
- (2) **HAMPSHIRE COUNTY COUNCIL** of The Castle Winchester Hampshire SO23 8UJ ("the County Council")
- (3) **SAINSBURY'S SUPERMARKETS LTD** (Company Registration Number 3261722) whose registered office is at 33 Holborn, London EC1N 2HT ("the Owner")

RECITALS:

- (A) The Council is the local planning authority for the purposes of the Act for the area in which the Land is situated.
- (B) The County Council is the highway authority for Hampshire.
- (C) The ownership interests of the Owner and Council are as described in the recitals to the Original Agreement.
- (D) The First Amendment Application was submitted on behalf of the Owner to vary condition 35 of the Original Permission in August 2012 and the parties entered into the Amendment Agreement in substantially the same manner and form as this Agreement. The Council granted the First Amendment Permission on 7 March 2013.
- (E) The Second Amendment Application has been submitted to the Council on behalf of the Owner in order to vary condition 35 of the First Amendment Permission and the parties have agreed to enter into this Second Supplemental Agreement in order to bind development carried out pursuant to the Second Amendment Permission to the obligations contained in the Original Agreement and the First Supplemental Agreement.

1. DEFINITIONS

For the purposes of this Agreement the following expressions shall have the following meanings:

"Act"	the Town and Country Planning Act 1990
"Amended Development"	Means Development as authorised by the Planning Permission APP/12/00835
"Development"	Means Development authorised by the Planning Permission APP/10/00793 consisting of demolition of existing buildings and erection of foodstore, undercroft car park, 6 pump petrol filling station, pedestrian access ramp and associated landscaping

"First Amendment Application"	the application to vary condition 35 of the Original Permission given planning reference APP/12/00835 to amend approved plans relating to: a reduction in height of the main building; alterations to glazing; alterations to highway layout; changes in landscaping and other small amendments.
"First Amendment Permission"	the planning permission granted in respect of the Amendment Application by the Council under reference APP/12/00835
"First Supplemental Agreement"	an agreement relating to the Land entered into by the parties on 6 th March 2013 pursuant to sections 106 and 106A of the Act
"Land"	means the Land at Salvador Caetano Coach Builders, Hambledon Road/Aysgarth Road and Aston Road, Waterlooville, Hampshire as indentified edged red in the Plan to the Original Agreement
"Original Agreement"	an agreement relating to the Land and entered into by the parties on 22 December 2011 pursuant to Section 106 of the Act
"Original Permission"	the planning permission granted by the Council under reference APP/10/00793
"Second Amendment Application"	the application given planning reference APP/13/01190 to vary condition 35 of the First Amendment Permission to amend the approved plans for the food store, car park, petrol filling station and pedestrian ramp; those alterations to comprise extension to the atrium, minor alterations to the petrol filling station kiosk and a minor rearrangement of plant machinery on the roof
"Second Amendment Permission"	the planning permission to be granted by the Council pursuant to the Second Amendment Application given planning reference APP/13/01190

2. CONSTRUCTION OF THIS AGREEMENT

- 2.1 Where in this Agreement reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Agreement.

- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.
- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.
- 2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.6 References to any party to this Agreement shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council the successors to its statutory functions.
- 2.7 The headings and contents list are for reference only and shall not affect construction.
- 2.8 Words and phrases used in this Deed are defined at clause 1. Save as otherwise provided words and phrases in this Agreement shall have the meanings given to them in the Original Agreement and First Supplemental Agreement and the terms of the Original Agreement and First Supplemental Agreement shall apply to this Agreement mutatis mutandis.

3. LEGAL BASIS

- 3.1 This Agreement is made pursuant to Section 106 and 106A of the Act and Section 111 of the Local Government Act 1972.
- 3.2 The covenants, restrictions and requirements imposed upon the Owner under this Agreement create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council or County Council (as appropriate) as local planning authority and are entered into by the Owner with the intention that they bind the interests held by those Owner in the Site and their respective successors and assigns.

4. LEGAL EFFECT

This Agreement shall take effect from the date hereof.

5. SECOND AMENDMENT PERMISSION TO BE BOUND BY ORIGINAL AGREEMENT AND FIRST SUPPLEMENTAL AGREEMENT

The parties hereto agree in relation to any development carried out pursuant to the Second Amendment Permission to be bound by the terms

of the Original Agreement and First Supplemental Agreement as if references to "Development" in the Original Agreement and the First Supplemental Agreement include development pursuant to the Second Amendment Permission so as to ensure the obligations contained within the Original Agreement (as modified by the First Supplemental Agreement) regulate and control the carrying out of the Amended Development together with the Development.

6. MISCELLANEOUS

- 6.1 No provisions of this Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.
- 6.2 This Agreement shall be registerable as a local land charge by the Council.
- 6.3 Insofar as any clause or clauses of this Agreement are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement.
- 6.4 This Agreement shall cease to have effect (insofar only as it has not already been complied with) if the Second Amendment Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owners) it is modified by any statutory procedure or expires prior to the Implementation of Development and the Original Agreement and the First Supplemental Agreement shall continue to apply in terms of the Development subject to the Original Planning Permission
- 6.5 No person shall be liable for any breach of any of the planning obligations or other provisions of this Agreement after it shall have parted with its entire interest in the Site or such part of the Site in respect of which the breach occurs but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 6.6 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission other than the Original Permission and Second Amendment Permission.
- 6.7 Nothing contained or implied in this Agreement shall prejudice or affect the rights discretions powers duties and obligations of the Council and/or County Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.

7. JURISDICTION

This Deed is governed by and interpreted in accordance with the law of England and the parties submit to the non-exclusive jurisdiction of the courts of England.

8. DELIVERY

The provisions of this Agreement (other than this clause which shall be of immediate effect) shall be of no effect until this Agreement has been dated.

IN WITNESS whereof the parties hereto have executed this Agreement as a deed on the day and year first before written.

EXECUTED as a Deed by affixing the Common Seal of
THE COUNCIL OF THE BOROUGH OF HAVANT
in the presence of:

Authorised Signatory:.....



EXECUTED as a Deed by affixing the Common Seal
of **HAMPSHIRE COUNTY COUNCIL** in the presence
of :

Authorised Signatory:

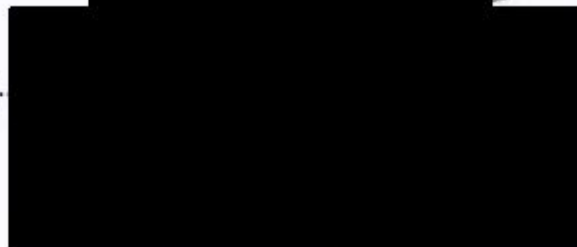


EXECUTED as a deed by affixing the
common seal of **SAINSBURY'S**
SUPERMARKETS LTD in the presence of:

Authorised signatory.....



Authorise signatory.



Lawrence Graham LLP
4 More London Riverside
London SE1 2AU

T/ +44 20 7379 0000
F/ +44 20 7379 6854

Lawrence Graham LLP
Unit 2, Level 6
Currency House Office Building 1
The Gate District
Dubai International Financial Centre
PO Box 506503
Dubai, United Arab Emirates

T/ +971 4 437 5100
F/ +971 4 437 5101

Lawrence Graham
Est-Ouest
24 bd Princesse Charlotte
MC 98000 Monaco

T/ +377 93 10 55 10
F/ +377 93 10 55 11

Lawrence Graham (CIS) LLP
1-st Troitsky Pereulok 12/5
Moscow, 129090
Russia

T/ +7 495 799-5501
F/ +7 495 799-5502

India desk
Sunil Kakkad

T/ +44 20 7759 6548
E/ sunil.kakkad@lg-legal.com

info@lg-legal.com
www.lg-legal.com



Lawyers.
Just different.