

DATED 10 DECEMBER 2018

(1) PORTSMOUTH CITY COUNCIL

(2) THE COUNCIL OF THE BOROUGH OF HAVANT

(3) HAMPSHIRE COUNTY COUNCIL

DEED OF VARIATION to SECTION 106 AGREEMENT

relating to the development at

Dunsbury Hill Farm, Havant, Hampshire

THIS DEED is dated

10 DECEMBER

2018

BETWEEN:

1. **PORTSMOUTH CITY COUNCIL** of Civic Offices, Guildhall Square, Portsmouth, PO1 2PX
(Owner)
2. **THE COUNCIL OF THE BOROUGH OF HAVANT** of Civic Offices, Havant, Hampshire, PO9 2AX (Council);
3. **HAMPSHIRE COUNTY COUNCIL** of The Castle, Winchester, Hampshire SO23 8UJ (County Council)

BACKGROUND

- (A) For the purposes of the Act, the Council and the County Council are the local planning authorities for the area within which the Land is situated and are entitled to enforce the obligations contained in this deed.
- (B) The County Council is the highway authority (save for trunk roads and special roads) and the transport authority for Hampshire for the purposes of the Transport Acts 1985 and 2000 for the area within which the Land is situated.
- (C) The Owner is the freehold owner of the whole of the Land.
- (D) This deed is supplemental to an agreement dated 19 February 2014 made pursuant to section 106 of the Act between the Owner, the Council and the County Council (**Original Agreement**) as varied by a deed of variation dated 1 October 2015 made between the Owner, the Council and the County Council (**Deed of Variation**).
- (E) The Owner has submitted the 2017 Application for permission to remove the restriction on the proportion of B8 floorspace permitted by the 2015 Permission.
- (F) Without prejudice to the terms of the other covenants contained in the Original Agreement as varied by the Deed of Variation the parties have agreed to vary the terms of Original Agreement as set out in this supplemental deed.

IT IS AGREED

1 INTERPRETATION

- 1.1 In this deed the following definitions and rules of interpretation apply:

"Deed of Variation"	the deed of variation made pursuant to section 106 and section 106A between the (1) Owner, (2) the Council and (3) the County Council dated 1 October 2015
"Original Agreement"	the section 106 agreement dated 19 February 2014 between the (1) Owner, (2) the Council and (3) the County Council
"2015 Permission"	the planning permission granted by the Council with reference number APP/15/00732
"2017 Application"	means the planning application submitted by the Owner to the Council with the Council's reference number

	APP/17/01324 to remove the restriction on the proportion of B8 floorspace
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- 1.2 Save where expressly stated otherwise the words and expressions used in this deed shall have the meaning assigned to them in the Original Agreement.
- 1.3 Clause headings shall not affect the interpretation of this deed.
- 1.4 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to any party shall include that party's personal representatives, successors or permitted assigns and in the case of the Council and the County Council the successors to its respective statutory functions.
- 1.8 Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.9 Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.10 Unless the context otherwise requires, references to clauses are to the clauses of this deed.
- 1.11 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.12 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 STATUTORY PROVISIONS

This deed is made pursuant to Section 106 and 106A of the Act, section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and any other enabling powers and contains amendments to the planning obligations contained in the Original Agreement and the Deed of Variation.

3 VARIATIONS TO THE ORIGINAL AGREEMENT

- 3.1 From and including the date of this deed the Original Agreement and the Deed of Variation shall be modified by the following provisions:
 - 3.1.1 at clause 2.1 of the Original Agreement the definition of "The A3(M) Crossing" shall be deleted in its entirety and replaced with

"The A3(M) Crossing" means the proposed pedestrian crossing of the A3(M) which includes the provision of pedestrian and cycle access from the site access from Hulbert Road to the western side of the A3(M) junction 3 roundabout (such alignment to be agreed by the County Council acting reasonably within the reasonable parameters identified within the Feasibility Study following completion of the Feasibility Study)

- 3.1.2 at clause 2.2 of the Original Agreement the definition of "The A3(M) Crossing Works" shall be deleted in its entirety and replaced with

"The A3(M) Crossing Works" means the works to secure and provide for the A3(M) Crossing such works not to exceed Three Hundred Thousand Pounds (£300,000) (index linked from 19 February 2014 until the date 6 months after approval of the Feasibility Study at the latest)

- 3.1.3 at clause 2.11 of the Original Agreement the definition "the Application" shall be deleted in its entirety and replaced with

"the Application" means the planning applications submitted to the Council given references APP/12/00338, APP/15/00732 and APP/17/01324 for the Development

- 3.1.4 at clause 2.43 of the Original Agreement the definition "Planning Permission" shall be amended to include the words "substantially in the form set out in Schedule 1" after the word "Application".

- 3.1.5 the following definition shall be inserted as a new clause 2.57 to the Original Agreement:

"The Feasibility Study" means a written study to be carried out and completed by the Owner to the complete satisfaction of the County Council and Highways England (acting reasonably) and to be submitted to the County Council for its approval such study to establish the feasibility and alignment of The A3(M) Crossing

- 3.1.6 the draft planning permission appended to Schedule 1 of the Original Agreement and Schedule 10 of the Deed of Variation shall be removed and replaced with the draft planning permission annexed to the Schedule of this deed.

- 3.1.7 paragraph 1.1.3 of Schedule 4 (Provision of Highway Works) to the Original Agreement shall be deleted in its entirety and replaced with

"1.1.3 To submit the Feasibility Study to the County Council within 12 months from ~~10 DECEMBER 2018~~ (the date of the deed of variation arising from the 2017 Application) and should the submitted Feasibility Study not be to the County Council's satisfaction (in its reasonable opinion) then the Owner shall resubmit the duly amended Feasibility Study to the County Council for approval within 3 months of being notified that it is not satisfactory"

- 3.1.8 paragraph 1.1.4 of Schedule 4 (Provision of Highway Works) to the Original Agreement shall be deleted in its entirety and replaced with

"1.1.4 Within 6 months following approval of the Feasibility Study and in agreement with the County Council (in its reasonable discretion and such agreement not to be unreasonably withheld or delayed) to either:

1.1.4.1 subject to any appropriate approval from Highways England being secured, enter into an agreement with the County Council pursuant to (inter alia) sections 278 and 38 Highways Act 1980 in respect of the A3(M) Crossing Works and further to deliver the A3(M) Crossing Works that for the avoidance of doubt shall cost no more than £300,000 (Index Linked from 19 February 2014 until the date 6 months after approval of the Feasibility Study at the latest) in any circumstances) to the complete satisfaction of the County Council as evidenced by the issue of a certificate of completion; or

1.1.4.2 subject to any appropriate approval from Highways England being secured, enter into an agreement with the County Council pursuant to (inter alia) sections 278 and 38 Highways Act 1980 to deliver so much of the A3(M) Crossing Works as shall be agreed between the County Council and the Owner and further to deliver that part of the A3(M) Crossing Works to the complete satisfaction of the County Council as evidenced by the issue of a certificate of completion in respect of the works agreed by the County Council and the Owner AND FURTHER to pay £300,000 (index linked from 19 February 2014 until the date 6 months after approval of the Feasibility Study at the latest) required to be spent on the A3(M) Works to the County Council as a Contribution to be used towards the delivery of the outstanding elements of the A3(M) Works LESS the value of the works undertaken by the Owner under this clause 1.1.4.2; or

1.1.4.3 pay to the County Council the sum of Three Hundred Thousand Pounds (£300,000) (index linked from 19 February 2014 until the date 6 months after approval of the Feasibility Study at the latest) as a contribution towards the A3(M) Crossing Works and the Owner shall dedicate any land reasonably required by reference to the Feasibility Study to ensure that the A3(M) Crossing Works can be successfully delivered by the County Council

3.1.9 paragraphs 1.1.5 and 1.1.6 of Schedule 4 (Provision of Highway Works) to the Original Agreement shall be deleted and replaced with

"1.1.5 this paragraph has been left intentionally blank.

1.1.6 this paragraph has been left intentionally blank."

3.1.10 clause 12.2 of the Original Agreement shall be read and construed to also exclude the highway agreements referred to at clause 3.1.8 of this deed which amends Schedule 4 of the Original Agreement.

3.2 Except as provided in this deed, it is agreed between the parties that this deed is supplemental to and not in substitution for the Original Agreement and the Deed of Variation and that the terms of the Original Agreement and the Deed of Variation will continue in full force and effect, subject only to the provisions of this deed;

4 **COSTS**

The Owner shall pay to the Council and to the County Council respectively on or before the date of completion of this deed, the Council and the County Council's reasonable and proper legal and development planning costs together with all disbursements reasonably incurred in connection with the preparation, completion and registration of this deed.

5 **LAND CHARGES**

This deed shall be registered as a local land charge by the Council.

6 **THIRD PARTY RIGHTS**

A person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this deed.

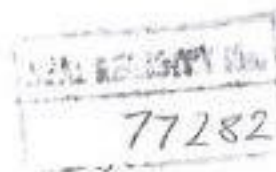
7 **GOVERNING LAW**

This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England.

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

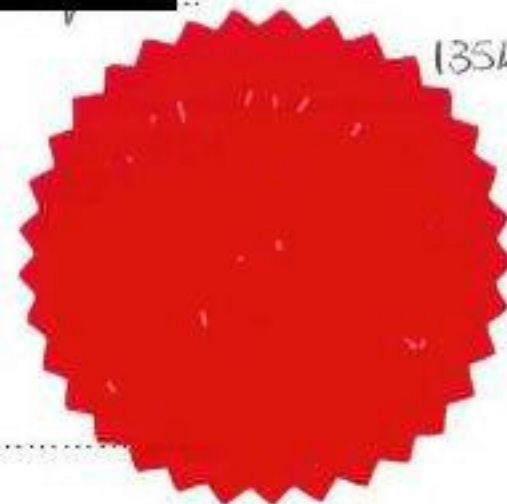
The COMMON SEAL of **PORTSMOUTH CITY COUNCIL** was hereunto affixed in pursuance of a resolution of the Council passed at a meeting duly convened and held:


Authorized Signatory



Executed as a deed by affixing The COMMON SEAL of **THE COUNCIL OF THE BOROUGH OF HAVANT** in the presence of:


Authorized Signatory



13540

Executed as a deed by affixing The
COMMON SEAL of HAMPSHIRE
COUNTY COUNCIL in the presence of:

)
)
)
)



Authorised Signatory



37/295

SCHEDULE

DRAFT PLANNING PERMISSION

DRAFT



Havant
BOROUGH COUNCIL

Public Service Plaza
Civic Centre Road
Havant
Hampshire PO9 2AX

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Mr Brewer
Savills
2 Charlotte Place
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SO14 0TB

For: Mr Hudson
Portsmouth City Council

**The Town and Country Planning (Development Management Procedure) (England) Order
2015
Grant of Planning Permission**

Application Number: APP/17/01324

Site Address: Dunsbury Park, Fitzwygram Way, Havant, PO9 4EE

Proposal: Variation of Condition B6 of Planning Permission APP/15/00732 to remove restriction on proportion of B8 floorspace allowed within the Dunsbury Park development, and thus provide for a maximum mixed use floor space of 61,779sqm within Classes B1, B2 and/or B8 of the Use Classes Order 1987 as amended.

Further to your application received on 08 December 2017 (which was valid from 11 December 2017) Havant Borough Council, as Local Planning Authority,

A) Grants Full Planning Permission for only the following part of the above proposal as described:

A new access link road with bus gate to Woolston Road; together with landscaping, infrastructure and associated works

This permission is subject to compliance with:

- (i) Part of the plans and other documents submitted with regard to your application, which relate to the development as described at (A) above and;
- (ii) Conditions A1-19 and C5 below:

B) Grants Outline Planning Permission for only the following part of the above proposal as described:

Development for employment uses and a hotel with conference facilities; together with landscaping, infrastructure and associated works.

This permission is subject to compliance with:

- (i) Part of the plans and other documents submitted with regard to your application, which relate to the development as described at (B) above and;
- (ii) Conditions A1-19 and B1-11 below:

Conditions A1 – A19 apply to the entire development site

(all land within the red line shown by the drawing 'Planning Application Site Boundary – Figure 1.2')

DRAFT

Conditions:

1 **A1: Landscape, Open Space and Ecology Strategy and Habitat Creation Area details**

Unless otherwise approved in writing by the Local Planning Authority, development shall only be carried out and shall be permanently managed and maintained in accordance with the documents below which were approved under APP/14/00270 & APP/15/00478:

- i) Landscape, Open Space and Ecology Strategy plan 1569-1009 Rev 1, terrafirma, April 2015
- ii) Dunsbury Hill Farm Landscape Management Plan, terrafirma, April 2015
- iii) Habitat Management & maintenance Plan (Link Road and Associated infrastructure phase), Atkins, February 2014

and unless otherwise approved in writing by the Local Planning Authority a review of these documents and details shall be submitted to and approved in writing by the Local Planning Authority within four years of the date of the approval of the last approved version of the document.

Reason: To ensure satisfactory comprehensive and high quality development and proper planning of the area and to safeguard ecology, including protected species having due regard to policies CS11, CS16, CS18 and DM8 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012 and in view of the likely length of the development period, to ensure that any refinements needed are made to reflect changed circumstances or new information or best practices.

2 **A2 SUDS Masterplan**

Unless otherwise approved in writing by the Local Planning Authority, the development shall be carried out in accordance with the Sustainable Drainage (SUDS) Masterplan and supporting technical information approved under application APP/15/00478, which includes:

- a) measures to attenuate flows on the site so as not to exceed the greenfield run-off rate of 3.4 l/s/ha from the site, calculated in accordance with the relevant standard (currently Institute of Hydrology 124 with appropriate pro-rata adjustment to reflect the site area), and
- b) proposals tested against 1, 30 and 100 year return periods, and
- c) proposals tested for a 100 year + 30% climate, and
- d) detention basins (where relevant) designed in accordance with the method prescribed in the Flood Risk and Drainage Assessment submitted with the outline application, and
- e) design parameters of the SUDS masterplan which address its construction, use

and maintenance in light of local hydrology, land use, the impact and use of physical site features, resulting benefits to the community & the environment, and future operation (both economic & maintenance),

f) An explanation of how sustainable drainage for the Access Link Road Corridor and Reserved Matters Areas are to be interconnected and designed not to exceed the greenfield run-off rate of 3.4 l/s/ha from the site.

g) Details of future SUDS management and maintenance arrangements including proof of adequate financial provision and a named body responsible for management plus production of a detailed management plan.

The development shall only be carried out in accordance with this Masterplan and supporting technical information and all surface water SUDS drainage shall be permanently managed and maintained in accordance with the management and maintenance arrangements and provisions approved under part g of this condition.

Reason: To ensure the provision of a satisfactory comprehensive sustainable drainage system to prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site having due regard to policies CS15, CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and National Planning Policy Framework, March 2012.

3 A3. Phasing Plan & Schedule

Prior to the commencement of any development hereby approved a phasing plan and schedule shall be submitted to and approved in writing by the Local Planning Authority to show how the full development of the site is to be carried out in numbered phases, and this plan and schedule shall be updated as phases are subsequently divided, subdivided or amalgamated and each updated version shall be submitted to and approved in writing by the Local Planning Authority. The phasing plan and schedule and any updated version shall include all of the following information:

- i) The location of each phase
- ii) The quantum of the development of each phase (size of the site or floorspace of buildings)
- iii) Any elements of Sustainable Drainage (SUDS) to be provided within each phase and how these will connect to other drainage downstream or upstream of each phase with a timetable for the provision of drainage relative to each phase
- iv) The provision of access to each phase, including any phased provision of the Access Link Road, the bridge over Hermitage Stream, bus gate (including vehicle turning space), bus stops and shelters, paths and cyclepaths and other new access roads, with a timetable for the connection of the Access Link Road to Woolston Road and for the provision of access roads relative to each phase
- v) A timetable for the provision of ecological mitigation and provision of new habitat relative to each phase
- vi) A timetable for the provision of a Habitat Creation Area
- vii) A timetable for the provision and completion of open space and landscaped areas, including publicly accessible open space relative to each phase

Development shall only be carried out in accordance with the approved phasing plan, schedule and timetable or any approved updated version unless otherwise

approved in writing by the Local Planning Authority.

Reason: To ensure a co-ordinated and comprehensive form of development in which interdependent elements of the overall development are planned for and timetabled. It also allows flexibility by means of updating of these phases and timetabling as detailed plans for the site emerge. This is important in delivering a high quality and properly planned form of development having due regard to policy CS18 of the Havant Borough Local Plan (Core Strategy) and the National Planning Policy Framework 2012.

4 A4. Environmental Impact

The development hereby approved shall be in broad conformity with the Environmental Statement which forms part of the current application.

Reason: To ensure that the impacts of development and mitigation are broadly in accordance with the Environmental Statement pursuant to the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

5 A5. Materials

Construction of each building or structure shall not commence until samples and details of all external materials and any surfacing (including semi-permeable materials) have been submitted to and approved in writing by the Local Planning Authority. Thereafter only such approved materials and finishes shall be used in the construction of each building, structure or surfacing work.

Reason: In the interests of the amenities of the locality and having due regard to policies CS16 and DM9 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

6 A6. Means of enclosure - PD Restriction along Access Road, Park Lane and frontages

No means of enclosure shall be erected along any frontage with the principal access road (the Access Link Road as shown by Figure 4.5 contained within the Environmental Statement Volume 2 – Drawings, dated March 2012), or any frontage onto Park Lane or any frontage onto other access roads and paths throughout the development area, unless details have first been approved in writing by the Local Planning Authority. This condition shall apply notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, as amended or any Order amending, revoking or re-enacting that Order.

Reason: To control enclosures in prominent locations and where highway visibility may also be important, in order to ensure a high quality form of development and in the interests of safety, to accord with policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

7 A7 Landscaping - Implementation

All landscaping for each phase of development shall be completed, in full accordance with detailed landscaping schemes as shall first be approved under conditions B3 & C3 of this notice of permission, prior to the occupation of each such phase or during the first planting season immediately following occupation. Any tree or shrub planted or retained as part of any such approved landscaping scheme which dies or is otherwise removed within the first 5 years shall be replaced with another of the same species and size in the same position during the first available planting season.

Reason: To ensure the appearance of the development is satisfactory and having due regard to policies CS11, CS16, DM8 and CS18 of the Havant Borough Local Plan (Core Strategy) 2011 Framework and National Planning Policy Framework March 2012.

- 8 Unless otherwise agreed in writing by the Local Planning Authority the restoration of the Hermitage Stream shall be permanently managed and maintained in accordance with the detailed maintenance regime approved under application APP/15/00676.

Reason: To ensure that the river restoration is managed in a way that contributes to nature conservation value and contributes to the outcomes of the Water Framework Directive, having due regard to policies DM8, CS11, CS15 & CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and policy AL7 of the Submission Version of the Havant Borough Local Plan (Allocations) December 2013, and the National Planning Policy Framework 2012.

9 **A9. Hermitage Stream – Buffer**

ii) Prior to the commencement of development of that part of the site to the east of the Park Lane bridleway (FP 123) a scheme for the provision and management of a sufficient buffer zone alongside Park Lane Stream shall be submitted to and agreed in writing by the Local Planning Authority.

The development shall be carried out in accordance with the approved schemes i) and ii) and any subsequent amendments which are first agreed in writing by the Local Planning Authority. The buffer zone scheme shall be kept free from built development including lighting, and formal landscaping, unless otherwise approved in writing by the Local Planning Authority. The schemes i) and ii) shall include:

- a. Plans showing the extent and layout of the buffer zone.
- b. Details of any proposed planting scheme.
- c. Details demonstrating how the buffer zone will be protected during development and permanently managed and maintained including proof of adequate financial provision and named body responsible for management plus production of detailed management plan.

Reason: To protect the ecological value of the Hermitage Stream & Park Lane Stream in the long term, especially where there is the opportunity to restore the heavily modified channel to a natural state in accordance with the outcomes of the Water Framework Directive, having due regard to policies DM8, CS11, CS15 & CS16 of the Havant Borough Local Plan Core Strategy 2011, and policy AL7 of the Submission Version of the Havant Borough Local Plan (Allocations) December 2013, and the National Planning Policy Framework 2012.

10 **A10. Tree Protection**

Prior to the commencement of each phase of development a full Tree Protection Plan for that phase must be submitted to the LPA for approval, (unless agreed otherwise in writing by the Local Planning Authority)

No development including site clearance shall commence on the site until all trees not previously agreed with the Local Planning Authority for removal, shall have been protected by fencing, the extent of which shall first be agreed in writing with the Local Planning Authority. Such fencing shall conform to the following specification in accordance with BS5837 2012.: Trees in relation to construction an be of a minimum 2.4 metres high, comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, supporting a minimum of 20mm exterior grade ply.

Such fencing shall be maintained throughout the course of the works on the site, during which period no access, placement of materials, fuels or chemicals, soil or other materials shall take place inside the fenced off area.

Reason: To ensure that trees, shrubs and other natural features to be retained are adequately protected from damage to health and stability throughout the construction period in the interests of amenity and having due regard to policies CS11.4 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

11 A11. Environmental Management During Construction

Prior to the commencement of each phase of development a Construction Environment Management Plan (CEMP) for that phase shall be submitted to and approved in writing by the Local Planning Authority including:

- a. Site management conforming to Environmental Statement, air quality, suppression of dust, control of noise & vibration, protection of water quality, waste management plan, wheel washing, hours of work
- b. Traffic management, routing, delivery hours, frequency, site manager / banksman,
- c. Identify specific responsibilities and enforcing agencies (not only Planning Authority)

Each phase of development shall only be carried out fully in accordance with the Construction Management Plan for that phase unless otherwise agreed in writing by the Local Planning Authority.

Reason: To mitigate and minimise the impacts of development in accordance with the Environmental Statement submitted with the application and having due regard to policies DM8, DM10, CS18 and CS20 of the Havant Borough Local Plan (Core Strategy) 2011 and policy AL1 of the Submission Version of the Havant Borough Local Plan (Allocations) December 2013, and National Planning Policy Framework, March 2012

12 A12. Contractor parking on site.

Prior to the commencement of each phase of development, including any related site clearance, a plan and particulars specifying the provision to be made within the site and/or on other land nearby for the parking (throughout the clearance and construction period) of construction vehicles and of other vehicles delivering/removing materials and other items to/from the development site have been submitted to and approved in writing by the Local Planning Authority. Thereafter, throughout such site clearance and implementation of each phases of development, all such temporary parking provision shall be provided and used only as such.

Reason: In the interests of highway safety and to safeguard the amenities of the locality and and having due regard to policies CS16, DM10 and DM13 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

13 A13. Site compound & Storage

Prior to the commencement of each phase of development , including any related site clearance, plans and particulars specifying the provision to be made for a material storage compound shall be submitted to and approved in writing by the

Local Planning Authority. The approved compound shall be available prior to the commencement of any building works and throughout the contract period for each phase and no materials shall be stored anywhere else on the site unless otherwise agreed in writing by the Local Planning Authority. This condition shall apply notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or and Order revoking or re-enacting that Order.

Reason: To mitigate and minimise the impacts of development in accordance with the Environmental Statement submitted with the application, to control pollution, to safeguard the amenities of the locality and having due regard to policies CS16, CS18 CS20, DM8 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

14 **A14. Contaminated land – scheme**

Prior to the commencement of each phase of development a scheme to deal with the risks associated with contamination of that part of the site shall be submitted to and approved in writing by the Local Planning Authority. That scheme shall include all of the following elements unless specifically excluded, in writing by the Local Planning Authority.

viii. A desk study identifying:

- a. All previous uses
- b. potential contaminants associated with those uses.
- c. a conceptual model of the site indicating sources, pathways and receptors potentially unacceptable risks arising from contamination at the site.

ix. A site investigation scheme based on previous investigation reports, for the purpose of provide informing an appropriate assessment of the risks to all receptors that may be affected, including those off site.

x. The results of the site investigation and risk assessment (2) and if appropriate, a method statement based on these results giving full details of the remediation measures required and how they are to be undertaken.

xi. A verification report shall be prepared on completion of the remediation measures set out in (3) confirming that measures have been undertaken in accordance with the method statement and setting out measures for maintenance, further monitoring and reporting.

The approved scheme shall be implemented prior to development of each phase commencing on site and shall be adhered to at all times unless otherwise agreed in writing by the Local Planning Authority.

Reason: To prevent future site users, and buildings being exposed to unacceptable risks of harm arising from previous land uses, inclusive of filled land & soil gas, and having due regard to policy DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and policy DM17 of the Submission Version of the Havant Borough Local Plan (Allocations) December 2013, and National Planning Policy Framework, March 2012.

15 **A15 Contaminated land – mitigation**

If, during development of any phase, contamination not previously identified on site is found to be present, no further development of that phase shall be undertaken until a report has been submitted to and approved by the Local Planning Authority detailing how that contamination is to be dealt with. Unless otherwise agreed in writing with the Local Planning Authority, all works outlined in the submitted report

shall be implemented and fully adhered to prior to works recommencing on site .

Reason: To ensure that potential risks from unanticipated land contamination to the future users of the land are minimised, together with those to property. To ensure that the development can be carried out safely without unacceptable risks to workers, and having due regard for policies and having due regard to policy DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and policy DM17 of the Submission Version of the Havant Borough Local Plan (Allocations) December 2013, and National Planning Policy Framework, March 2012.

16 A16 Archaeology - investigation & management.

Development hereby permitted on Plots 1, 3, 4, 4a, 5 and 5a, as shown on site plan DP1, is to be the subject of an archaeological watching brief, involving any topsoil strip being carried out under controlled conditions and under the supervision of an archaeological contractor. No development on Plot 6 hereby permitted shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been first submitted by the applicant and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved programme of archaeological work and scheme of investigation.

Reason: The site is of archaeological significance and it is important that the opportunity should be afforded to excavate the site before development commences and having due regard to policy CS11.4 of the Havant Borough Local Plan (Core Strategy) 2011, and National Planning Policy Framework, March 2012.

17 A17 Ecology – Dormice

Prior to the commencement of any development activities, fully-detailed dormouse mitigation, compensation and enhancement measures for each development plot shall be submitted to and agreed in writing by the Local Planning Authority. Such details shall be broadly in accordance with the measures detailed within Chapter 15 of the 'Dunsbury Hill Farm Environmental Statement Volume 1' (Atkins, March 2012) and the 'Dormouse Mitigation Strategy Technical Note' (Atkins, August 2013) and will include (but not necessarily be restricted to) such matters as: location, extent and timing of vegetation loss; location, extent and composition of habitat creation; location of mitigation features such as nest boxes. The development shall only be carried out in accordance with the approved details and mitigation, compensation and enhancement measures, unless otherwise agreed in writing by the Local Planning Authority

Reason: In order to safeguard protected species and having due regard to policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011 and National Planning Policy Framework, March 2012.

18 A18 Ecology – Bats

Prior to the commencement of any development activities for each development plot a detailed scheme of bat mitigation measures shall be submitted to, and agreed in writing by, the Local Planning Authority. Such details shall be broadly in accordance with the outline mitigation, compensation and enhancement measures detailed within Chapter 15 of the 'Dunsbury Hill Farm Environmental Statement Volume 1' (Atkins, March 2012) and the 'Phase 2 Bat Survey' report (ECOSA, August 2013) and will include (but not necessarily be restricted to) such matters as: results of updating Phase 1 and Phase 2 bat roosting and activity surveys; assessment of likely impacts to roosting, foraging and commuting bats;

measures for the enhancement of the site for bat species (e.g. protected/enhanced flight routes, new roosting opportunities etc.). The development shall only be carried out in accordance with the approved mitigation measures unless otherwise agreed in writing by the Local Planning Authority

Reason: In order to safeguard protected species and having due regard to policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011 and National Planning Policy Framework, March 2012.

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

Plan Number	Title	Date of revision
Figure 1.2	Planning Application Site Boundary	March 2012
5099849/TP/LP/101 Rev B	Location Plan Overview	4.11.11
Figure 4.5	Access Road and Link Road	March 2013
Figure 5.8 – Rev A	Indicative Masterplan	January 2013
5099849/TP/GA/101 Rev C	General Arrangement (sheet 1 of 4)	16.3.11
5099849/TP/GA/102 Rev B	General Arrangement (sheet 2 of 4)	4.11.11
5099849/TP/GA/103 Rev D*	General Arrangement (sheet 3 of 4)	4.11.11 (*Issue date 10.12.12)
5099849/TP/GA/104 Rev C*	General Arrangement (sheet 4 of 4)	4.11.11 (*Issue date 10.12.12)
5099849/TP/GA/102 Rev A	Long Sections M001 & M002 (Main Development Alignment)	4.11.11
5099849/TP/XS/101 to 5099849/TP/XS/112 (All Rev A)	Cross Sections (Sheets 1-12)	4.11.11
5099849/TP/BR/101 Rev D*	Bridge General Arrangement	4.11.11 *but this version issued to Local Planning Authority by email Ecologist's 23 rd August 2013
HW1852/4354	Potential Pedestrian/Cycle Route.	15 January 2014
5099849/TP/LP/0009 Rev A	Tree Survey Plan 8	15.8.11
5099849/TP/LP/0010 Rev A	Tree Survey Plan 9	15.8.11
5099849/TP/LP/0008 Rev A	Tree Survey Plan 7	15.8.11
5099849/TP/LA/0001 Rev A	Tree Survey Key Plan	23.8.11
5099849/TP/LA/0004 Rev A	Tree Survey Plan 3	23.8.11
5099849/TP/LP/0007 Rev A	Tree Survey Plan 6	15.8.11
5099849/TP/LP/0006 Rev A – Draft	Tree Survey Plan 5	15.8.11
5099849/TP/LP/0009 Rev	Tree Survey Plan 4	15.8.11

A		
5099849/TP/LA/0002 Rev A	Tree Survey Plan 1	23.8.11
5099849/TP/LA/0003 Rev A	Tree Survey Plan 2	23.8.11
	Arboricultural Report	March 2012
	Correction to application form question 18 – Floorspace figures	July 2012
	Design and Access Statement	March 2012 but the Indicative Masterplan corrected by figure 5.8 – Rev A dated January 2013
	Environmental Statement Volume 1 Including Appendices: 2.1, 2.2, 2.3, 10.1, 11.1, 13.1 and 15.1 – 15.10 Environmental Statement Addendum	March 2012 June 2015
	Environmental Statement Volume 2 – Drawings	March 2012 But the Parameter Plan 3: Building Heights Figure 2.3 replaced by drawing ref: MP-XX-DR-A-1004-P6 Parameter Plan Building Heights dated 17.7.2017
	Environmental Statement Volume 3 – Technical Appendices (and Appendices 15.1 – 15.10)	March 2012
Rev 2.0	Flood Risk Assessment	2.9.11
	Planning Statement	March 2012
	Sustainability Statement	March 2012
Transport Assessment March 2012		
Rev 1.0	Transport Assessment Addendum	15 January 2013
Ecology – additional information:		
	Dormouse Mitigation Strategy – Technical Note	23 August 2013
	Phase 2 Bat Survey – ECOSA Ltd.	August 2013
Figure 15.2 – Rev A	Summary of Mitigation Strategy	Dated March 2013 but this version issued to Local Planning Authority by Ecologist's email 23rd August 2013

Reason: - To ensure provision of a satisfactory development.

20 **B1. Time limit**

The development comprising employment uses, a hotel and conference facilities hereby permitted shall be begun before the expiration of 7 years from the date of the approval of the last of the reserved matters to be approved.

Reason: To comply with Section 92 Town and Country Planning Act 1990 CPA 1990 as amended.

21 **B2. Submission of Reserved Matters**

Application for approval of reserved matters shall be made to the Local Planning Authority before the expiration of 10 years from 19/02/2014 (the grant of planning permission APP/12/00338)

Reason: To comply with Section 92 Town and Country Planning Act 1990 CPA 1990 as amended.

22 **B3. Reserved Matters**

Approval of the details of the following aspects of the development, **hereinafter called "Reserved Matters"** shall be obtained from the Local Planning Authority in writing before each individual phase of development is commenced:

- (i) access, (with the exception of the access road corridor for which full permission is granted by this permission)
- (ii) the layout of the development
- (iii) the scale of the development;
- (iv) the appearance of the development
- (v) the detailed landscaping scheme for the site, including provisions for open space, including publicly accessible open space, and ecology.

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

Reason: In order to secure a satisfactory form of development and having due regard to policies of the Havant Borough Local Plan (Core Strategy) 2011, including CS2, CS11, CS16, CS18, CS19, DM1, DM8, DM10, DM11 & DM14, and Policies AL1 and AL5 of the Havant Borough (Allocations) Document (Publication Version) October 2013 and National Planning Policy Framework, March 2012.

23 **B4. Other Matters - strategic documents**

All buildings and other structures erected in the Outline Application Area pursuant to this permission shall be in accordance with the following documents approved by the Local Planning Authority.

- a. Design Code and Signage Strategy
- b. Public Realm Strategy

Furthermore no building or other structure shall be erected in the Outline Application Area pursuant to this permission within 30 metres of the Park Lane bridleway (FP 123) until a Park Lane Visual Framework document has been submitted to and approved in writing by the Local Planning Authority.

The Park Lane Visual Framework shall be substantially in accordance with the Design and

Access Statement dated March 2012, the Environmental Statement, (including mitigation measures) also dated March 2012 (which were submitted with the planning application), the Design Code and Public Realm Strategy and unless otherwise approved in writing by the Local Planning Authority, a review of each document shall be submitted to and approved in writing by the Local Planning Authority within four years of the date of the approval of the last approved version of the document. The development shall only be carried out in accordance with the documents approved under this condition.

Reason: In order to maintain a satisfactory comprehensive and high quality development and proper planning of the area and having due regard to policies CS11, CS16, CS18 and DM8 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012 and in view of the likely length of the development period, to ensure that any refinements needed are made to reflect changed circumstances or new information or best practices.

24 **B5. Submission of 'Other Matters'**

Application for approval of each reserved matters for new buildings, structures or uses of land pursuant to this permission shall be accompanied by information and plans concerning the following other matters, unless otherwise agreed in writing by Local Planning Authority.

- a. Details of parking including provision for non-car modes
- b. Details of delivery and vehicle turning space
- c. Levels of existing and proposed ground and buildings
- d. A sustainability statement detailing measures to ensure that development attains the BREAM 'excellent' standard
- e. Provision for waste storage and recycling
- f. Measures for the reduction of crime risk
- g. Details of lighting, (including access roads if subject of a particular reserved matters application)
- h. A noise assessment for any development for General Industrial purposes (Class B2) or Storage and Distribution purposes (Class B8).
- i. A traffic routing plan for any development for Storage and Distribution purposes (Class B8).

Reason: To ensure satisfactory high quality development, and proper planning of the area and having due regard to policies CS16 and CS18 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012

25 **B6. Range of Uses**

The development hereby approved shall not exceed the following totals,:

- a) 61,779sqm comprising a range of uses within Classes B1, B2, B8 of the Use Classes Order 1987 as amended.

and

- b) Up to 5574sqm comprising an hotel with conference facilities.

Reason: To ensure that development can provide for a range of business and employment opportunities, including knowledge based businesses and a quality hotel with conference facilities, in accordance with policy CS18 of the Havant Borough Local Plan (Core Strategy) 2011 and policy AL1 of the Submission Version of the Havant Borough Local Plan (Allocations) December 2013, and the National Planning Policy Framework 2012.

26 **B7. No Residential Use**

Notwithstanding the provisions of the Section 55 of the Town and Country Planning Act or Town and Country Planning (Use Classes) Order 1987 as amended, or the Town and Country Planning (General Permitted Development) Order 1995, as amended or any Order amending, revoking or re-enacting either of those Orders, none of the development hereby approved shall be used for any residential purpose whatsoever, without the prior written approval of the Local Planning Authority.

Reason: In light of the temporary changes to the Town and Country Planning (General Permitted Development) Order 1995 as amended, contained in SI 2013/1101, to ensure that this strategic business and employment allocation and development is implemented in accordance with policy CS18 of the Havant Borough Local Plan (Core Strategy) 2011 and policy AL1 of the Submission Version of the Havant Borough Local Plan (Allocations) December 2013, and the National Planning Policy Framework 2012, and because the development is subject to Environmental Impact Assessment procedures, in which the impacts and mitigation have been based on the range of uses applied for.

27 **B8. Provision & Retention of access parking, turning and loading areas.**

All vehicular access roads and site accesses, parking, turning and loading areas serving each building or premises pursuant to this permission, shall be constructed prior to the occupation of each such building or premises and thereafter kept permanently available for access, parking, turning or loading purposes respectively, unless the Local Planning Authority gives prior written approval for any variation.

Reason: To ensure that adequate provision is made and retained for access, parking, turning and loading in the interests of highway safety and having due regard to policy DM13 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

28 **B9 Provision of Access Roads Within the Outline Application Area**

Prior to the commencement of each phase of development within the Outline Application Area plans and particulars specifying the alignment, width, gradient and type of construction proposed for all footways, roads and individual accesses thereto (including all relevant horizontal cross and longitudinal sections) and the related provision to be made for street lighting and for surface water disposal and a programme for the implementation and making up of the same for that phase, shall be submitted to and approved in writing by the Local Planning Authority. All roads shall be constructed to an adoptable standard and the implementation and making up of the same shall be completed in full accordance with such plans and particulars as are thus approved by the Authority and in accordance with the timetable approved as part of the phasing plan and schedule under condition A3 (iv) of this permission.

Reason: To ensure that they are constructed to satisfactory standard and, where appropriate a standard which will enable them to be taken over as publicly maintained highways and having due regard to policies CS16 and CS20 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

29 **B10. Drainage Plans and Information**

Prior to the commencement of each phase of development within the Reserved Matters Area:

- i) Details of foul water drainage along with written confirmation of the agreement of Southern Water shall be submitted to, and approved in writing by, the Local Planning Authority, and
- ii) Sustainable surface water drainage (SUDS) scheme with supporting technical

information shall also be submitted to and approved in writing by the Local Planning Authority to explain how the scheme is in conformity with the SUDS Masterplan and supporting technical information approved under condition A2 of this notice of permission. Unless otherwise approved in writing by the Local Planning Authority, each SUDS scheme shall include a change scenario (i.e. information showing that alternative drainage solutions and their impact have been tested),

and

iii) Details of the timing for the provision of the surface water SUDS scheme and foul water drainage,

and

iv) Details of future SUDS management and maintenance arrangements including proof of adequate financial provision and a named body responsible for management plus production of a detailed management plan.

Each approved foul water plans and surface water SUDS drainage shall be fully implemented, in accordance with the approved timing arrangements, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority. Furthermore all surface water SUDS drainage shall be permanently managed and maintained in accordance with the management and maintenance arrangements and provisions approved under this condition

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site. To ensure that the access bridge will not increase flood risk to the site or to off-site areas and to ensure that there is sufficient foul water drainage capacity within the sewage network to deal with the waste water supply from the site having due regard to policies CS15, CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and National Planning Policy Framework, March 2012.

30 B11 Details of floodlighting and external lighting to be approved

No floodlighting shall be installed within the development unless it has been either been agreed as part of the Lighting Strategy under condition 4b 3 of this notice of permission or has been submitted to and approved by the Local Planning Authority. Such details shall include, location, height, type and direction of light sources and intensity of illumination. The approved lighting scheme shall be fully implemented and adhered to at all times unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to safeguard the landscape, bats and residents close to the site occupiers from light disturbance and having due regard to policies DM10 CS11, CS16 and CS18 of the Havant Borough Local Plan (Core Strategy) and National Planning Policy Framework, March 2012.

31 C4 Construction of Hulbert Road Access

The vehicular access to Hulbert Road and the first 40 metres of the Access Link Road eastward of Hulbert Road shall be constructed prior to the commencement of any other part of the Access Link Road, unless the Local Planning Authority gives prior written approval for any variation. The access shall thereafter be kept permanently available to serve development at the site.

Reason: In the interests of highway safety and having due regard to policy DM13 of the Havant Borough Local Plan (Core Strategy) 2011 and policies AL1 and AL5 of the Submission Version of the Havant Borough Local Plan (Allocations) December 2013, and the National Planning Policy Framework 2012.

32 **C5 Bus gate – provision**

The bus gate shall be installed prior to the opening to vehicles of the Access Link Road to Woolston Road, unless the Local Planning Authority gives prior written approval for any variation. For the sake of clarity, this condition shall not apply to the provision of any temporary cycle and/or pedestrian only connection to Woolston Road.

Reason: In the interests of highway safety and the amenities of the area having due regard to policies DM13 and CS16 and CS18 of the Havant Borough Local Plan (Core Strategy) 2011, and policies AL1 and AL5 of the Submission Version of the Havant Borough Local Plan (Allocations) December 2013, and the National Planning Policy Framework 2012.

33 **C6- Directional Signage**

Prior to the occupation of any B8 floorspace, details of signage directing traffic exiting from within the Dunsbury Park site towards Junction 3 of the A3 shall be submitted and approved by the Local Planning Authority. The signage shall be erected in accordance with the approved details and thereafter maintained and remain in place for the life of the development.

Reason: In the interests of highway safety and the amenities of the area having due regard to policies CS16 and CS18 of the Havant Borough Local Plan (Core Strategy) 2011, and the National Planning Policy Framework 2012.

Other Important Information:

- (1) This notice only relates to the decision of Havant Borough Council as Local Planning Authority under the Town and Country Planning Acts. It does not relate to any other application that may be required under the Building Regulations or under any other Act, Regulation, Byelaw or Order where the Council's approval may be needed. For further guidance as to the need for consent under the Building Regulations please phone 023 9244 6571.
- (2) Your attention is drawn to the attached information regarding firstly your right to appeal to the Planning Inspectorate, if you are aggrieved by the Council's decision, and secondly the rights of an owner to, in certain circumstances serve a purchase notice on the Council. See www.planningportal.gov.uk/pcs.
- (3) Any failure to adhere to the details of the approved plans, and other documents or to comply with any conditions listed above may lead to enforcement action being taken by the Council. If you wish to depart from the approved details or conditions in any way you should contact the Development Control Service at the Plaza or by telephoning 023 9244 6015.

Head of Planning

