

THIS AGREEMENT is made the 28 day of July 2020

BETWEEN:

- (1) **THE COUNCIL OF THE BOROUGH OF GUILDFORD** the principal administrative office of which is at Millmead House Millmead Guildford Surrey GU2 4BB ("the Council")
- (2) **GUILDFORD DIOCESAN BOARD OF FINANCE** being a Company limited by guarantee (Company Registration Number 225289) incorporated in England and Wales whose registered office is at Church House Guildford 20 Alan Turing Road Surrey Research Park Guildford Surrey GU2 7YF ("the Owner")

BACKGROUND

- (a) The Council is the local planning authority for the purposes of the 1990 Act for the area in which the Land is situated.
- (b) The Owner is the owner of the Land.
- (c) The Application has been submitted to the Council.
- (d) The Land is sufficiently close to the Special Protection Area for the Development to require mitigation.
- (e) The Council has adopted the Strategy.
- (f) The Council considers that a deed of planning obligation is required.
- (g) The parties to this Deed have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.

NOW THIS DEED WITNESSES AS FOLLOWS:

1. DEFINITIONS

For the purposes of all provisions in this Deed the following expressions shall have the following meanings:

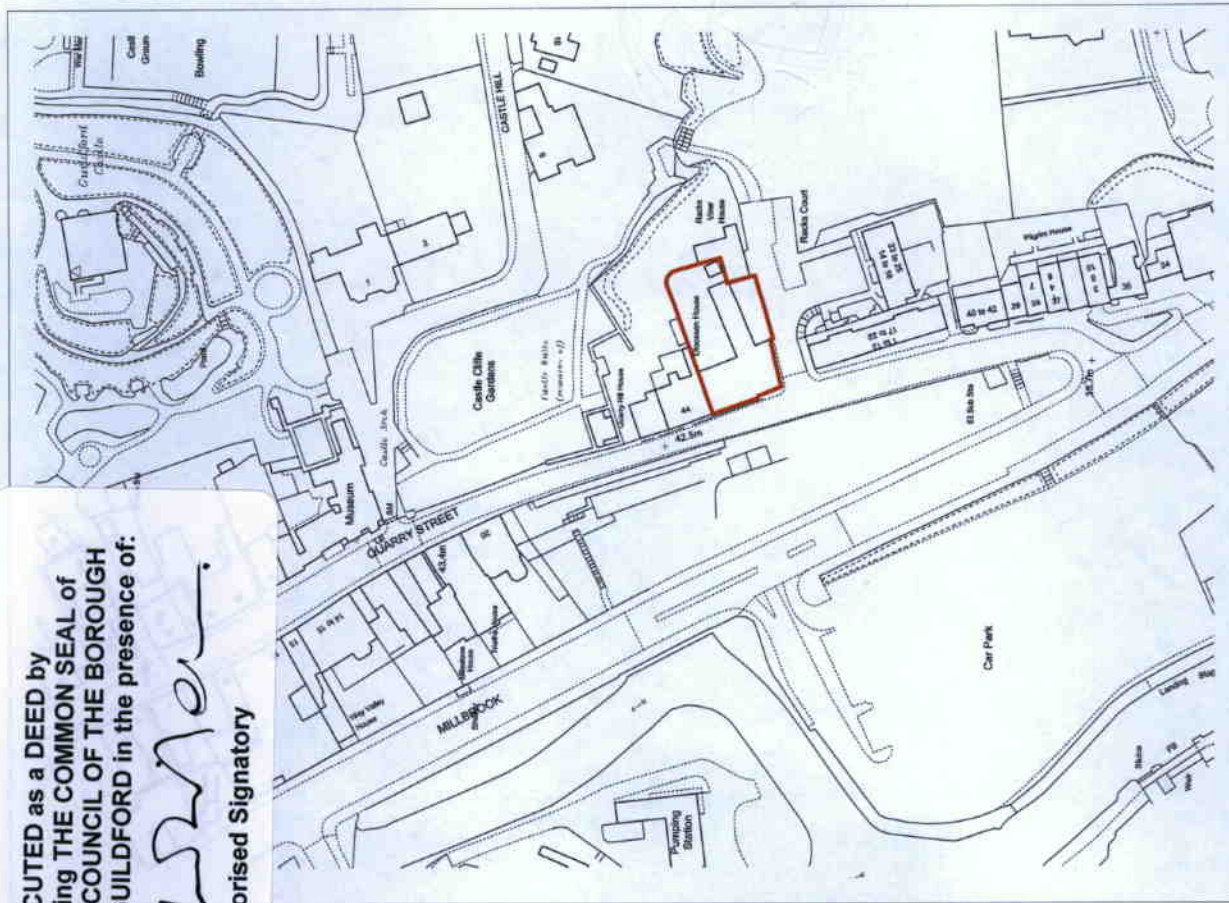
"1990 Act"	the Town and Country Planning Act 1990 as amended.
"Access Management and Monitoring Contribution"	the sum of THREE THOUSAND FIVE HUNDRED POUNDS AND EIGHTY FOUR PENCE (£3,500.84) to be paid to the Council by the Owner towards access management and monitoring of the Special Protection Area to be coordinated strategically by Natural England working with the Council and other Special Protection Area affected authorities and land managers, as part of an overarching strategy for access management.

"Application"	the application for planning permission submitted to the Council validated by the Council and allocated reference number 19/P/00732 for conversion of office building and change of use to three residential dwellings, demolition of 20th century extension and replacement with new building containing two semi-detached dwellings, with associated parking.
"Commencement of Development"	the date on which any material operation (as defined in Section 56(4) of the 1990 Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, erection of any temporary means of enclosure and the temporary display of site notices or advertisements and the phrases "Commence Development" and "Development will Commence" shall be construed accordingly.
"Development"	the development of the Land as set out in the Application and as detailed in and as authorised by the Planning Permission.
"Index"	the All Items Index of Retail Prices issued by the Office for National Statistics.
"Interest"	interest at 4 per cent above the base lending rate of the Bank of England from time to time in force.
"Land"	the land and premises against which this Deed may be enforced as detailed in the First Schedule and more particularly delineated edged with a red line on the Plan.
"Occupation" and "Occupied"	occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations.
"Plan"	the plan entitled "43 Quarry Street Guildford" in Drawing Number P18090-RFT-01-XX—DR-A-0100 prepared by Re-format LLP ref AS dated March 2019 attached to this Deed.
"Planning Permission"	the full planning permission subject to conditions to be granted by the Council pursuant to the Application.
"SANGS"	the Suitable Accessible Natural Green Space to be

EXECUTED as a DEED by
Affixing THE COMMON SEAL of
THE COUNCIL OF THE BOROUGH
OF GUILDFORD in the presence of:

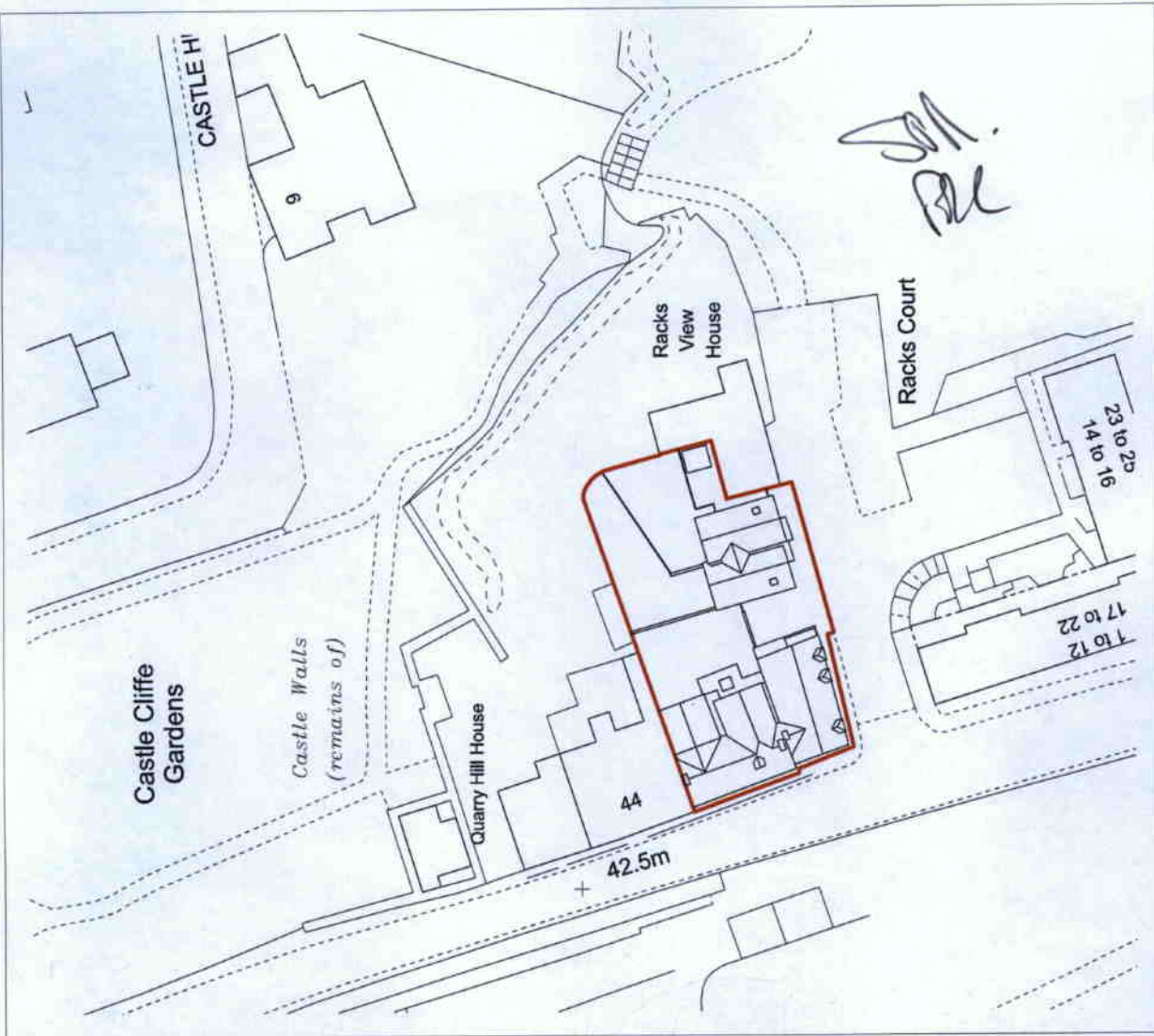
[Signature]

Authorised Signatory



Location Plan

1:1250



Block Plan - as proposed

1:500

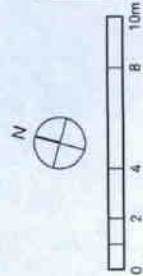
project	originator	volume	level	type	role	number
P18090 - RFT	01	XX	DR	A	-	0100
status	availability	description	revision	number	description	number
S4	Planning		02			

project title	date	drawn by	checked by	scale
43 Quarry Street, Guildford	Mar 2019	AS	RM	1:1250
document title	scale	checked by	checked by	checked by
Location Plan & Block Plan	1:1250	RM	RM	RM

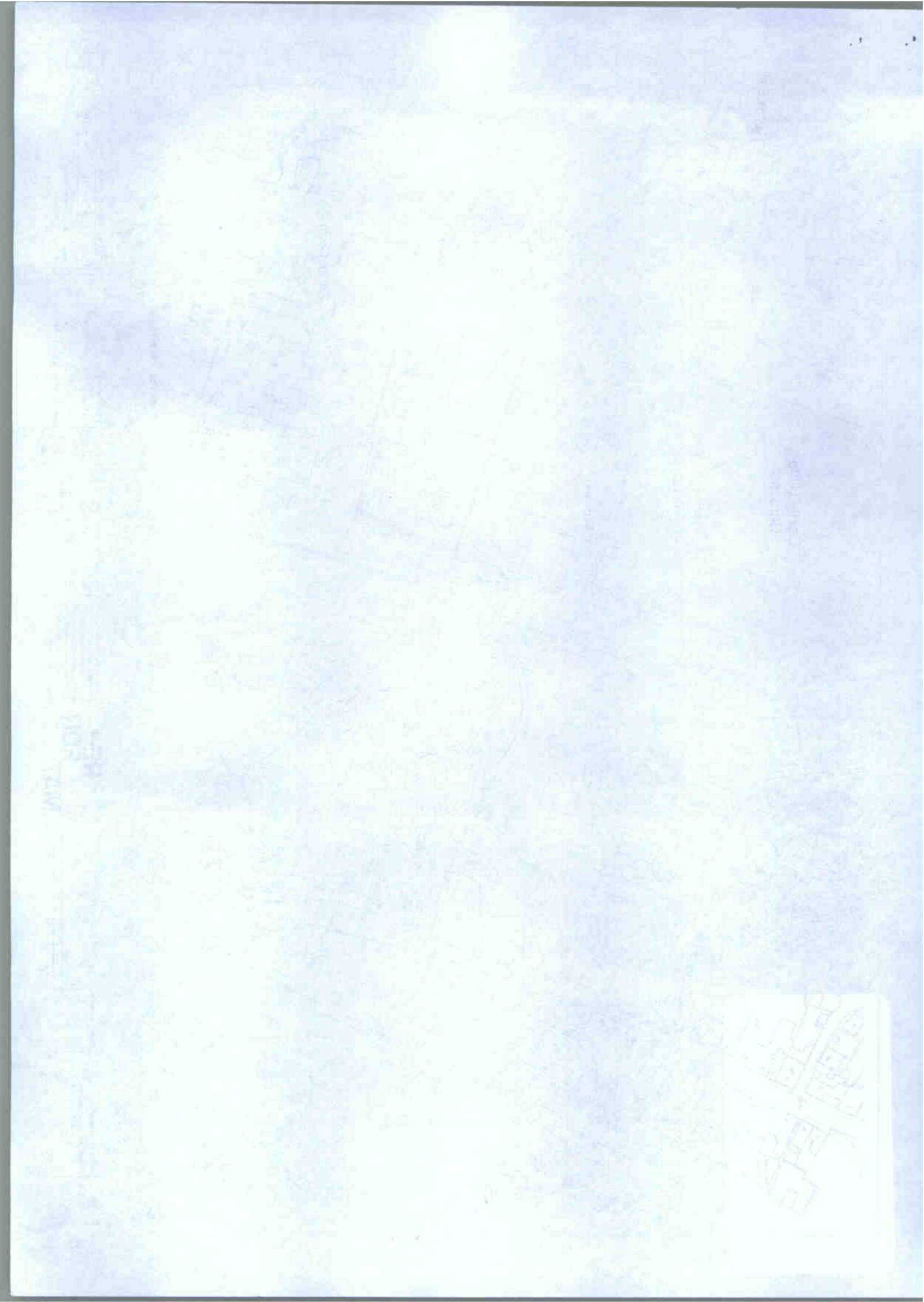
www.re-format.co.uk
mail@re-format.co.uk
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date	changes description	status	issued by
10/31/2019	Revised planning application	S4	50
4/10/2019			



provided within the Borough of Guildford in accordance with the Strategy.

"SANGS Contribution" the sum of THIRTY ONE THOUSAND NINE HUNDRED AND THIRTY FIVE POUNDS AND TWENTY EIGHT PENCE (£31,935.28) to be paid to the Council by the Owner in accordance with the Strategy as a contribution towards the cost of upgrading SANGS including the cost of maintaining the SANGS.

"Strategy" the Thames Basin Heaths Special Protection Area Avoidance Strategy 2017 Supplemental Planning Document adopted by the Council on 18 July 2017 and in effect from 26 July 2017 or any revision modification amendment or replacement thereto.

"Special Protection Area" the Thames Basin Heaths Special Protection Area designated on 9th March 2005 under the Conservation (Natural Habitats, &c.) Regulations 1994 Statutory Instrument 1994 No. 2716 which derive from European Directives 92/43/EEC Conservation of natural habitats and of wild fauna and flora and 79/409/EEC Conservation of wild birds.

"Working Days" all days except Saturdays Sundays Bank Holidays and all other Public Holidays.

2 INTERPRETATION

- 2.1 Where in this Deed reference is made to any clause, paragraph or schedule such reference (unless the context otherwise requires) shall be a reference to a clause, paragraph or schedule in or to this Deed.
- 2.2 The headings to the clauses, schedules and paragraphs of this Deed shall not affect the interpretation of this Deed.
- 2.3 The Schedules to this Deed form part of it and the provisions set out in the Schedules shall have the same full force and effect as if expressly set out in the body of this Deed.
- 2.4 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.5 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.
- 2.6 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations may be enforced against all of them jointly and against each individually unless there is an express provision otherwise.

2.7 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.

2.8 References to any party to this Deed 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 successor to its statutory functions.

3. ENABLING PROVISIONS

3.1 This Deed is made pursuant to Section 106 of the 1990 Act, Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 and any other enabling powers.

3.2 This Deed is a planning obligation for the purposes of Section 106 of the 1990 Act as amended and the covenants, restrictions and requirements imposed upon the Owner under this Deed are enforceable by the Council as local planning authority against the Owner pursuant to Section 106(3) of the 1990 Act.

3.3 The parties hereto are satisfied that (where applicable) the provisions of this Deed comply with the requirement of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

4. COMMENCEMENT

4.1 The obligations contained in this Deed are conditional on:

4.1.1 the grant of the Planning Permission; and

4.1.2 Commencement of Development

save for the provisions in clauses 5.2.1, 5.2.2, 7, 8, 16, 18 and 19.

5. THE OWNER'S COVENANTS

5.1 The Owner covenants with the Council as set out in the Second Schedule.

5.2 The Owner shall pay to the Council on completion of this Deed:

5.2.1 the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Deed in the sum of £730.00; and

5.2.2 a monitoring fee of £750.00 in connection with the Council's expenses incurred in monitoring and ensuring compliance with obligations on the part of the Owner comprised in this Deed.

6. THE COUNCIL'S COVENANTS

The Council covenants with the Owner as set out in the Third Schedule.

7. RIGHTS OF THIRD PARTIES

None of the provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.

8. REGISTRATION AS A LAND CHARGE

8.1 This Deed is a local land charge for the purposes of the Local Land Charges Act 1975 and shall be registrable as such by the Council.

8.2 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Council under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given on behalf of the Council by the Director of Planning and Regeneration or the Planning Development Manager.

8.3 The Council will upon the written request of the Owner at any time after all the obligations on the part of the Owner contained in this Deed have been fully discharged or performed issue the Owner with written confirmation of such discharge or performance and the Council will thereafter effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.

8.4 Insofar as any clause or clauses of this Deed 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 Deed.

9. DETERMINATION OF THE PLANNING PERMISSION

9.1 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or it is modified (other than by agreement with or at the request of the Owner) or it expires by effluxion of time prior to the Commencement of Development.

9.2 Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.

9.3 If there is any conflict between the terms of this Deed and any conditions attached to the Planning Permission the latter shall take precedence.

10. RELEASE

10.1 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after such person shall have parted with their entire interest in the Land, or the part in relation to which such breach relates, but without prejudice to his liability for any subsisting breach arising prior to parting with such interest.

10.2 This Deed shall not be enforced against any statutory undertaker which has or subsequently acquires an interest in any part of the Land for the purpose of its statutory functions or function.

10.3 This Deed shall not be enforceable against any individual owner, occupier, tenant or mortgagee of a dwelling to be constructed on the Land.

11. WARRANTIES

11.1 The Owner warrants that:

11.1 it has full authority to enter into this Deed;

11.2 no person other than the Owner has any legal or equitable interest in the Land;

11.3 it has investigated as necessary all matters of title to the Land and knows of no impediment to the validity of this Deed.

12. WAIVER

12.1 No waiver (whether expressed or implied) by the Council or Owner of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council or Owner from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

12.2 Nothing contained or implied in this Deed shall prejudice or affect the rights powers, duties and obligations of the Council in the exercise of its functions as local planning authority or under any public or private statute bylaw or regulation.

13. CHANGE IN OWNERSHIP

The Owner agrees with the Council to give the Council immediate written notice of any change in ownership of its interest or any part of its interest in the Land occurring before all the obligations under this Deed have been performed and discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with details of the part of the Land or unit of occupation purchased by reference to a plan (save in relation to individual dwellings).

14. INDEXATION

Any sum stipulated as being payable by the Owner to the Council shall be increased or decreased by an amount equivalent to the increase or decrease in the Index from the date Planning Permission is granted until the date on which such sum is payable (or paid if earlier) pursuant to the provisions of this Deed save for sums due pursuant to Clause 5.2.

15. INTEREST

- 15.1 If any payment due under the provisions of this Deed is paid more than seven days after the due date Interest shall in addition be payable on such sum from the date payment is due to the date of payment.
- 15.2 The Owner agrees that the Council shall be entitled to treat any interest accrued on the Access Management and Monitoring Contribution and SANGS Contribution or any interest payable pursuant to this clause 15 of the Deed (as the case may be) as if it were part of the principal sum paid by the Owner to the Council.

16. SERVICE OF NOTICES

- 16.1 Any notice, demand or any other communication to be given under or in connection with this Deed shall be in writing and will be effective only if delivered by hand or sent by recorded delivery to the party due to receive the notice, demand or communication.
- 16.2 Any notice, demand or any other communication served shall be sent to the address of the relevant party set out at the beginning of this Deed or to such other address as one party may notify in writing to the others at any time as its address for service and in the case of service upon the Council shall be marked for the attention of the Head of Legal.
- 16.3 Unless the time of actual receipt is proved, a notice, demand or communication sent by the following means shall be treated as having been served:
- 16.3.1 if delivered by hand, at the time of delivery; or
- 16.3.2 if sent by recorded delivery, at the time delivery was signed for.
- 16.4 If a notice, demand or any other communication is served after 4.00pm on a Working Day, or on a day that is not a Working Day, it shall be treated as having been served on the next Working Day.
- 16.5 For the avoidance of doubt, where proceedings have been issued in the Courts of England and Wales, the provisions of the Civil Procedure Rules must be complied with in respect of the service of documents in connections with those proceedings.

17. VAT

All sums payable in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable thereon.

18. JURISDICTION

This Deed is governed by and interpreted in accordance with the laws of England and Wales.

19. DELIVERY

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

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

FIRST SCHEDULE

Details of the Owner's Title, and description of the Land

The Owner is the Registered Proprietor with Freehold Title Absolute of:

All That land and premises situate at and known as Diocesan House 43 Quarry Sreet
Guildford Surrey GU1 3XG as the same is more particularly delineated edged with a
red line on the Plan and is registered at the Land Registry under title number
SY804607.

SECOND SCHEDULE

Owner's Covenants

The Owner covenants with the Council as follows:-

1. Notices

- 1.1 The Owner shall not Commence Development unless and until it has given the Council not less than 10 (ten) Working Days prior written notification of the date upon which the Development will Commence.
- 1.2 The Owner shall not Occupy the Development unless and until it has given the Council not less than 10 (ten) Working Days prior written notification of the date on which first Occupation is due to occur.
- 1.3 The notices referred to in paragraphs 1.1 and 1.2 of this Schedule shall be addressed to "The Section 106 Officer" who can be contacted on telephone 01483 444463 and by email at S106.officer@guildford.gov.uk.

2. SANGS Contribution and Access Management and Monitoring Contribution

- 2.1 The Owner shall not Commence Development unless and until it has paid to the Council:
 - 2.1.1 the SANGS Contribution; and
 - 2.1.2 the Access Management and Monitoring Contribution;
- 2.2 Following Commencement of Development the Owner shall not seek repayment of the SANGS Contribution or the Access Management and Monitoring Contribution.
- 2.3 In the event that either the Strategy and/or the payment of SANGS and/or the Access Management and Monitoring Contribution are the subject of legal challenge not to require the Council to repay the SANGS or the Access Management and Monitoring Contribution (as the case may be).

THIRD SCHEDULE

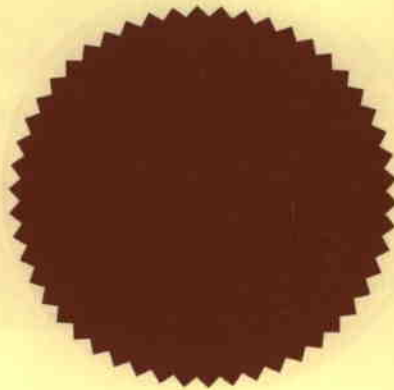
Council's Covenants

Subject to the Owner carrying out the Owner's obligations as set out in the Second Schedule the Council covenants with the Owner as follows:

1. SANGS Contribution and Access Management and Monitoring Contribution

- 1.1 The Council shall use the SANGS Contribution as a contribution towards the cost of upgrading an existing SANGS site within the Council's Borough in accordance with the Strategy and FOR THE AVOIDANCE OF DOUBT the Owner acknowledges and agrees that the SANGS Contribution will be used towards the Council's cost of maintaining and managing the SANGS pursuant to the Strategy.
- 1.2 To pass the Access Management and Monitoring Contribution to Natural England in accordance with such arrangements as may be agreed from time to time between the Council and Natural England.

EXECUTED AS A DEED by affixing)
THE COMMON SEAL of THE COUNCIL)
OF THE BOROUGH OF GUILDFORD)
in the presence of:-)





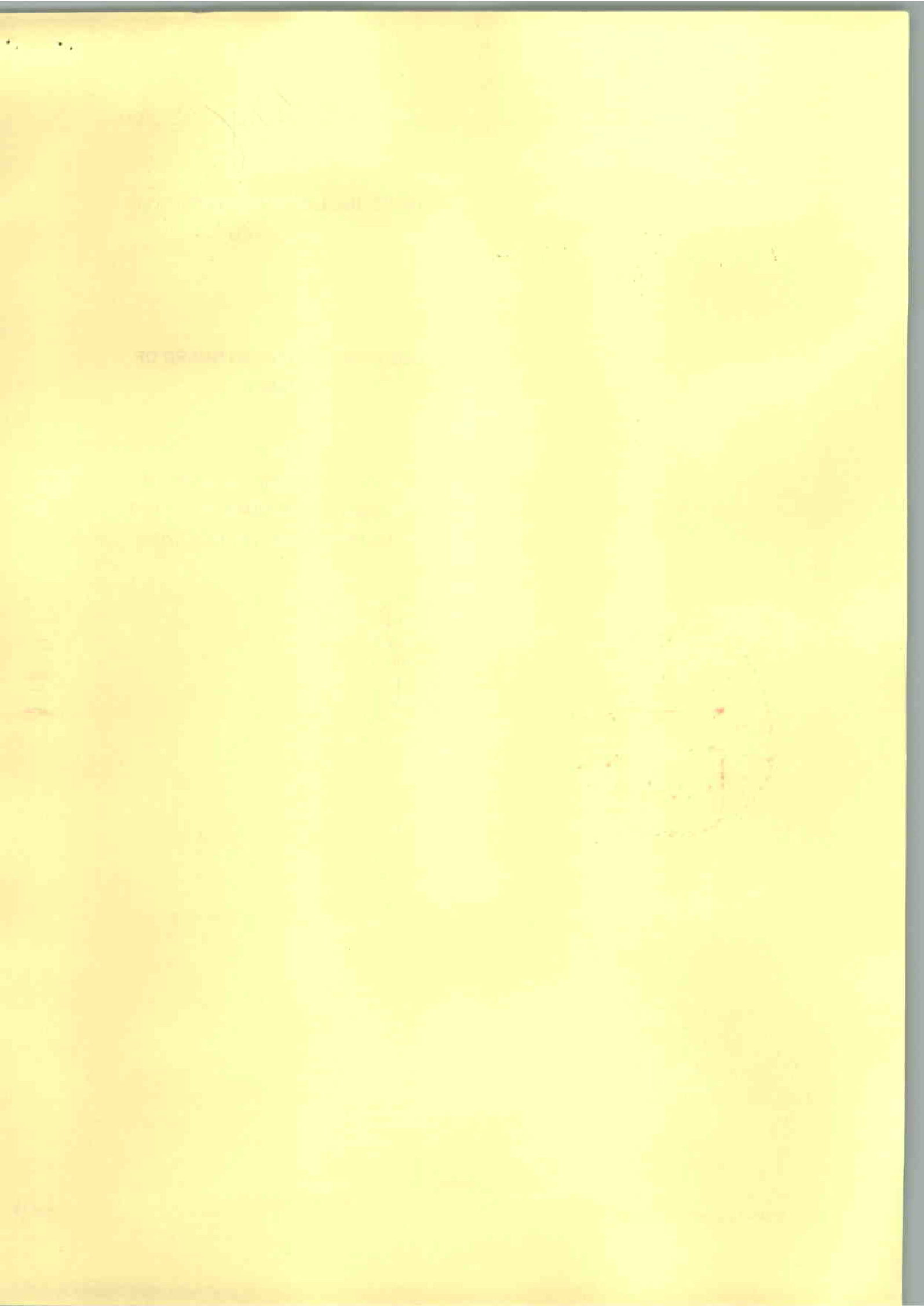
Authorised Signatory James Whiteman
Managing Director

EXECUTED as a DEED by affixing
THE COMMON SEAL of GUILDFORD
DIOCESAN BOARD OF FINANCE in
the presence of two directors or a
director and the secretary




.....
Director

.....
Director/Secretary



DATED

28 July

2020

**THE COUNCIL OF THE BOROUGH OF
GUILDFORD**

and

**GUILDFORD DIOCESAN BOARD OF
FINANCE**

DEED

Section 106 Agreement in respect of:
**DIOCESAN HOUSE QUARRY STREET
GUILDFORD SURREY GU1 3XG**

Guildford Borough Council
Millmead House
Millmead
Guildford
Surrey
GU2 4BB
File Ref DXJ/006404
Planning Ref 19/P/00732

Sealing Authority - Const
Minute Reference - pt 3
P. 3-68 para 1 + P. 3-54 para 6.
No. of Seal 407 / 20