

DATED

17<sup>th</sup> December

2009

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**LAFARGE AGGREGATES LIMITED**

- and -

**THE GORHAMBURY ESTATES COMPANY LIMITED**

- and -

**HELIO SLOUGH LIMITED**

**UNILATERAL UNDERTAKING MADE PURSUANT TO SECTION 106 TOWN AND  
COUNTRY PLANNING ACT 1990**

in respect of

**LAND IN AND AROUND THE FORMER AERODROME, NORTH ORBITAL ROAD, UPPER  
COLNE VALLEY, HERTFORDSHIRE**



U0475/00015  
CM1MG

Lovells LLP, Atlantic House, Holborn Viaduct, London EC1A 2FG

LIB03/CM1MG/2042770.6

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THIS DEED is made on

17th December

2009

**BETWEEN:**

- (1) **Lafarge Aggregates Limited** whose registered office is at Granite House, Granite Way, Syston, Leicester, Leicestershire LE7 1PL ("**Lafarge**");
- (2) **The Gorhambury Estates Company Limited** of Gorhambury, St Albans, Hertfordshire ("**Gorhambury**"); and
- (3) **HelioSlough Limited** whose registered office is at 234 Bath Road, Slough SL1 4EE (the "**Developer**");

For the benefit of:

- (4) **St Albans City and District Council** of Council Offices, Civic Centre, St Peter's Street, St Albans Hertfordshire AL1 3JE (the "**Council**"); and
- (5) **Hertfordshire County Council** of County Hall, Pegs Lane, Hertfordshire SG13 8DQ (the "**County Council**");

**1. RECITALS**

- 1.1 The Council is the local planning authority for the purposes of the 1990 Act for the area in which the Land is situated and the body by which the obligations in clauses 9, 10, 11 and 12 of this Deed are intended to be enforceable.
- 1.2 The County Council is a local planning authority within the meaning of the 1990 Act and the local highway authority for the purposes of the Highway Act 1980 and the body by which the obligations in clauses 4, 5, 6, 7, 8 and 13 of this Deed are intended to be enforceable.
- 1.3 Lafarge owns the freehold interest in the land edged red on drawing number 394503-LV-061 which forms Areas 2, 5, 6, 7 and 8.
- 1.4 Gorhambury owns the freehold interest in the land edged blue on drawing number 394503-LV-061 which forms part of Area 1 and Areas 3 and 4.
- 1.5 The Developer has options in relation to the land edged red and edged blue on drawing number 394503-LV-061 to enable it to purchase the freehold of such land following the occurrence of certain events.
- 1.6 The Developer has applied to the Council for the Planning Permission.
- 1.7 On 21 July 2009 the Council refused to grant Planning Permission and the Developer has subsequently appealed against the Council's decision to the Secretary of State.

1.8 Lafarge, Gorhambury and the Developer have agreed to enter into this Deed:

- (a) pursuant to the provisions of Section 106 of the 1990 Act and Section 111 of the Local Government Act 1972;
- (b) as a pre-requisite to the grant of Planning Permission to mitigate the impact of the Development and to enable the Development to go ahead;
- (c) upon the terms and conditions hereinafter appearing; and
- (d) with the further intent that the same shall be a local land charge and registered as such upon its completion.

NOW THIS DEED made in pursuance of Section 106 of the 1990 Act and Section 111 of Local Government Act 1972 witnesses as follows:

**2. DEFINITIONS AND INTERPRETATION**

2.1 In this Deed the following words and expressions shall unless the context otherwise requires have the following meaning:

"1990 Act"	the Town and Country Planning Act 1990 as amended;
"Area 1"	the area marked Area 1 shown edged red on drawing number 394503-LV-018;
"Area 2"	the area marked Area 2 shown edged red on drawing number 394503-LV-018;
"Area 3"	the area marked Area 3 shown edged red on drawing number 394503-LV-018;
"Area 4"	the area marked Area 4 shown edged red on drawing number 394503-LV-018;
"Area 5"	the area marked Area 5 shown edged red on drawing number 394503-LV-018;
"Area 6"	the area marked Area 6 shown edged red on drawing number 394503-LV-018;
"Area 7"	the area marked Area 7 shown edged red on drawing number 394503-LV-018;

<b>"Area 8"</b>	the area marked Area 8 shown edged red on drawing number 394503-LV-018;
<b>"Branch Railway Line Improvements"</b>	Improvements to the St Albans Abbey to Watford Junction branch line or the rail service on such branch line;
<b>"Branch Railway Line Improvements Contribution"</b>	a financial contribution of £200,000 (two hundred thousand pounds).
<b>"Commencement"</b>	<p>the carrying out on Area 1 or Area 2 of a material operation as defined by Section 56 (4) of the 1990 Act in connection with the Development save that for the purposes of this Deed none of the following operations shall constitute a material operation:</p> <ul style="list-style-type: none"><li>(a) archaeological or site inspections;</li><li>(b) site or soil surveys;</li><li>(c) decontamination works;</li><li>(d) demolition or site clearance;</li><li>(e) the laying of services;</li><li>(f) the erection of a site compound;</li><li>(g) the erection of temporary fences or hoardings;</li><li>(h) the display of advertisements including the erection of advertisement hoardings; and</li><li>(i) interim landscaping works; and</li></ul> <p><b>"Commenced"</b> shall be construed accordingly;</p>
<b>"Country Park"</b>	the country park to be provided on part of Area 1 and on part of Area 2 and on Areas 3-8;
<b>"Countryside Management Plan"</b>	a plan setting out details of the long term management and maintenance of the Country Park to be approved under the conditions attached to the Planning Permission;

**"Development"**

construction of a strategic rail freight interchange comprising an intermodal terminal and rail and road served distribution units (331,665 M<sup>2</sup> in Use Class B8 including ancillary B1/B2 floor space) within Area 1, with associated road, rail and other infrastructure facilities and works within Areas 1 and 2, (including earth mounds and a Park Street/Frogmore relief road) in a landscaped setting, and further landscaping and other works within Areas 3 to 8 inclusive to provide publicly accessible open land and community forest;

**"Drawing number 394503-LV-018"**

the drawing numbered 394503-LV-018 attached hereto;

**"Drawing number 394503-LV-061"**

the drawing numbered 394503-LV-061 attached hereto;

**"First Occupation"**

the first occupation of any Unit for commercial purposes but does not include occupation for the purposes of construction, fitting out, decoration, marketing or display and "First Occupied" shall be construed accordingly;

**"Footpaths, Bridleways and Cycleways Improvements"**

improvements to footpaths, bridleways and cycleways in the vicinity of the Land to include:

(a) formation of new or upgrading of existing footpaths or bridleways outside the Land as shown on drawing number 394503-P-057 (referred to in the conditions attached to the Planning Permission); and/or

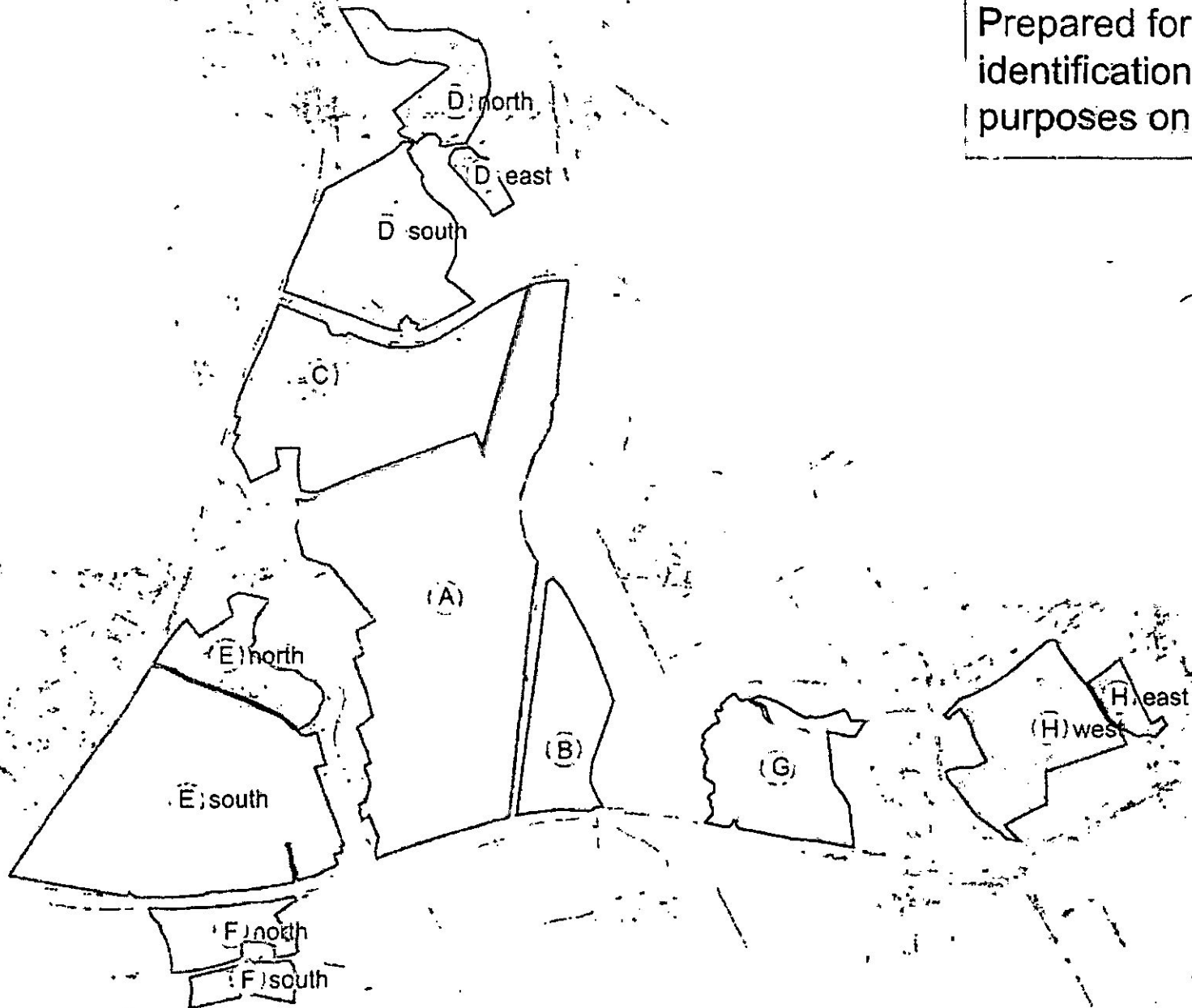
(b) the upgrade of the pavement on the southern side of the A414 to a combined pavement and cycleway in the vicinity of the Land; and/or

(c) improvements to the pedestrian bridges and underpasses in the vicinity of the Land.

**"Footpaths, Bridleways and Cycleways Improvements Contribution"**

a financial contribution of £450,000 (four hundred and fifty thousand pounds);

Prepared for  
identification  
purposes only.



LEGEND  
 Laforge Aggregates Ltd  
 Gorehambury Estate  
 Hertfordshire CC

*DGS*  
*W. H. H. H.*

*AS*

*SMY*

*W. H. H. H.*

*W. H. H. H.*

Hilltop Ltd

Falcon Aerodrome Site, North Oxford

Land Ownership Plan

For Illustrative Purposes Only

Ref: D3028 20

394934/481 DG RUS

2009 APPLICATION

Figure 4.61

**CAPITA LOVEJOY**

land planning by design

Capita Lovejoy

Land Level: 22 Chesham Street,

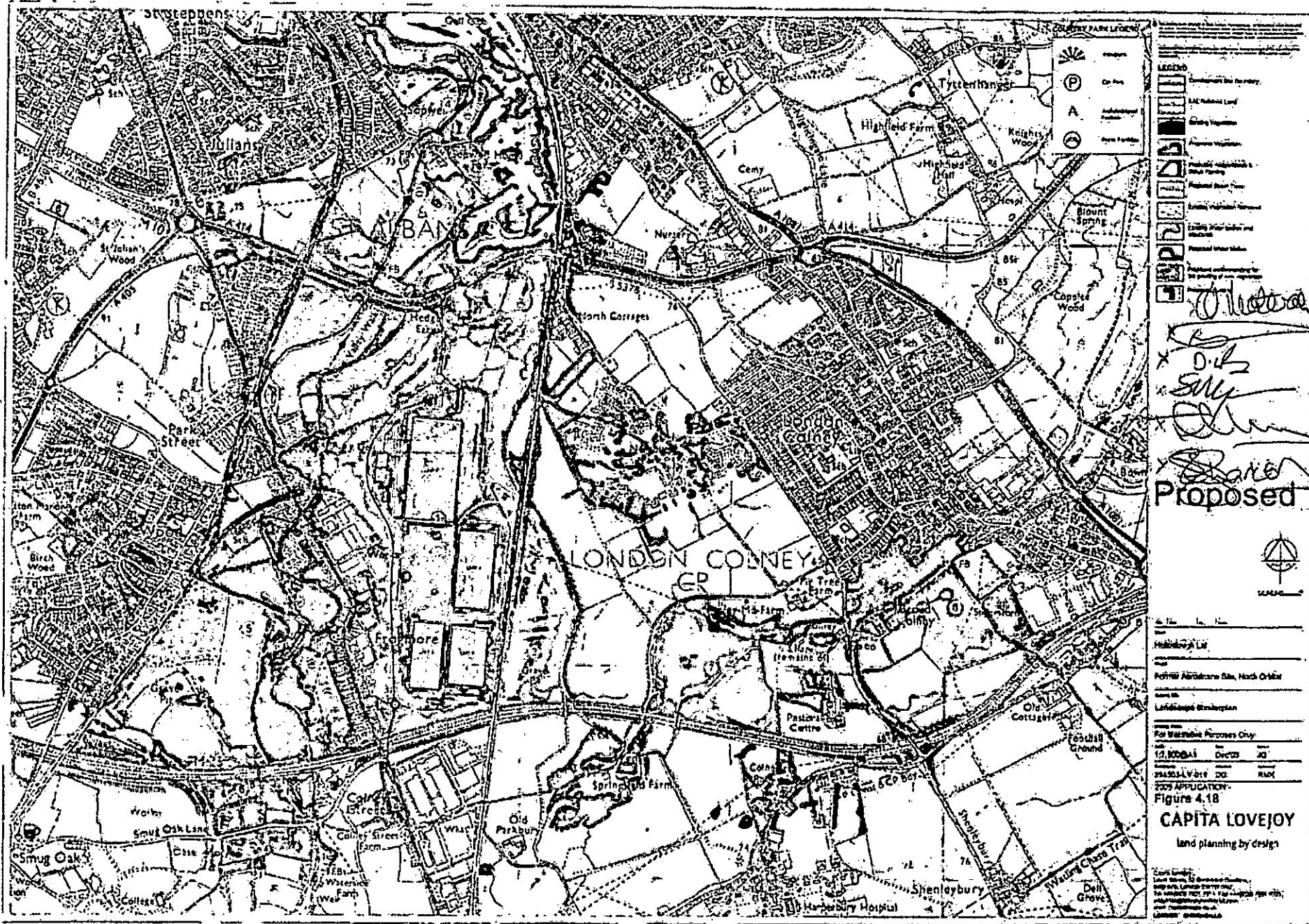
London, EC1A 3DF

Tel: +44 (0)20 7461 9911 Fax: +44 (0)20 7461 9912

www.capitalovejoy.com

1999-2009





LEGEND

- Boundary and Survey
- All Public Land
- Planning Designation
- Proposed Development
- Public Buildings & Sites
- Public Amenities
- Public Roads & Highways
- Other Amenities
- Other Buildings & Sites
- Other Amenities

*Walter*  
*John*  
*Sally*  
*David*  
**Proposed**



1:10,000  
Hertfordshire Ltd  
Hertfordshire City, North Colney  
Landscape Assessment  
17/06/04 Dec 05 JQ  
23/03/04 Dec 05 JQ  
2005 APPLICATION -  
**Figure 4.18**  
**CAPITA LOVEJOY**  
land planning by design  
© Capita Lovejoy 2005



<b>"Heavy Goods Vehicle"</b>	any goods vehicle which has an operating weight exceeding 7.5 tonnes;
<b>"the Index"</b>	the BIS Tender Price Index of Road Construction published by BCIS;
<b>"Index Linked"</b>	means that the sum payable shall be varied in the same proportion as the percentage increase in the Index between the quarterly Index figure from the third quarter of 2009 and the quarterly Index figure for the quarter immediately preceding the date of actual payment;
<b>"Intermodal Terminal"</b>	the intermodal terminal forming part of the Development
<b>"Land"</b>	Part of Area 1 and Areas 2 – 8 inclusive;
<b>"Landscape Management Plan"</b>	a plan setting out details of the long term management and maintenance of the landscape areas within the Country Park to be approved under the conditions attached to the Planning Permission;
<b>"Lorry Routing Contribution Measures"</b>	measures to be introduced by the County Council to ensure that Heavy Goods Vehicles are restricted from using Watling Street and Harper Lane;
<b>"Lorry Routing Contribution"</b>	a financial contribution of £75,000 (seventy five thousand pounds);
<b>"Owners"</b>	both Lafarge and Gorhambury;
<b>"Park Street/Frogmore Environmental Improvements"</b>	environmental improvements at Park Street/ Frogmore to include;  (a) traffic management measures to be introduced to restrict Heavy Goods Vehicles from using the A5183 in the vicinity of Park Street/ Frogmore save for those vehicles delivering to addresses in the vicinity of Park Street/ Frogmore and/ or;  (b) traffic calming measures and/or;  (c) footway widening and/or;

	(d) associated townscape and landscape works to improve the environment and residential amenity;
<b>"Park Street/Frogmore Environmental Improvements Contribution"</b>	a financial contribution of £300,000 (three hundred thousand pounds);
<b>"Park Street Railway Station Improvements"</b>	improvements to passenger facilities at Park Street Railway station and improvements to the street layout in the vicinity of Park Street Railway Station;
<b>"Park Street Railway Station Improvements Contribution"</b>	a financial contribution of £150,000 (one hundred and fifty thousand pounds);
<b>"Planning Application"</b>	the application dated 9 April 2009 for Planning Permission for the Development registered by the Council under the Council's reference number 5/2009/0708;
<b>"Planning Challenge"</b>	an application to the High Court challenging the grant of the Planning Permission.
<b>"Planning Permission"</b>	the planning permission granted or to be granted by the Secretary of State for the Development as a result of the determination of the appeal relating to the Planning Application;
<b>"Rail Subsidy Fund"</b>	the sum of £3 million (three million pounds);
<b>"Service Charge"</b>	the service charge paid under the occupational lease in relation to each Unit within Area 1;
<b>"Travel and Freight Monitoring and Management Plan Co-ordinator"</b>	the person appointed under the terms of the Travel and Freight Monitoring and Management Plan referred to in the conditions attached to the Planning Permission to co-ordinate the initiatives under the plan;
<b>"Trigger Event"</b>	the occupation of a specified number of Units or the occupation of a specified amount of floor area or floorspace within the Development or the date on which the average number of trains arriving at and leaving Area 1 over a specified period exceeds a specified number as referred to in this Deed or in the

conditions attached to the Planning Permission;

"Unit"

each of the respective warehouse units within Area 1 to be constructed as part of the Development;

2.2 Where the context so permits:

- (a) the expressions the "Owners", the "Developer", the "Council" and the "County Council" shall include their respective successors in title and assigns save where specifically provided to the contrary by this Deed;
- (b) words importing one gender shall include all other genders and words importing the singular shall include the plural and vice versa and any words denoting actual persons shall include companies corporations and other artificial persons;
- (c) any reference to a specific statute or statutes includes any statutory extension or modification amendment or re-enactment of such statute and any regulation or orders made under such statute;
- (d) references in this Deed to any clause subclause or schedule without further designation shall be construed as a reference to the clause subclause or schedule to this Deed so numbered; and
- (e) the clause paragraph and schedule headings do not form part of this Deed and shall not be taken into account in its construction or interpretation.

2.3 Each of the obligations and restrictions contained within this Deed is a planning obligation for the purposes of Section 106 of 1990 Act.

### 3. ENFORCEABILITY

3.1 The Developer enters into this Deed as the prospective developer of the Land under the Planning Permission by virtue of its options over the Land such that it is not liable to the Council and/or the County Council for any obligations until it becomes a successor in title to the Land upon which it shall become liable for obligations in accordance with the terms of this Deed.

3.2 The Owners enter into the obligations in this Deed for themselves and their successors in title for the benefit of the Council and the County Council to the intent that (save where otherwise provided in this Deed) the obligations in this Deed shall be enforceable not only against the Owners but also against the respective successors in title of Lafarge and Gorhambury to the Land or any part thereof and any person claiming through or under Lafarge or Gorhambury an interest or estate in the Land or any part thereof **PROVIDED THAT:**

- (a) Lafarge, any successors in title of Lafarge and any person deriving title under it shall not be liable for any breach of this Deed occurring after it shall have parted with its interest in the Land or the part of the Land to which the breach relates provided that for the avoidance of doubt the reservation of any rights or the inclusion of any covenants or restrictions over the Land in any transfer of the Land (or part thereof) shall not be interpreted or construed to the effect that Lafarge or any successor in title of Lafarge or any person deriving title under it has not parted with its interest in the Land for the purposes of this clause; and
- (b) Gorhambury, any successors in title of Gorhambury and any person deriving title under it shall not be liable for any breach of this Deed occurring after it shall have parted with its interest in the Land or the part of the Land to which the breach relates provided that for the avoidance of doubt the reservation of any rights or the inclusion of any covenants or restrictions over the Land in any transfer of the Land (or part thereof) shall not be interpreted or construed to the effect that Gorhambury or any successor in title of Gorhambury or any person deriving title under it has not parted with its interest in the Land for the purposes of this clause; and
- (c) the obligations entered into by Lafarge and by Gorhambury in this Deed are entered into severally such that Lafarge is only liable in relation to such obligations in so far as they relate to the land edged red on drawing number 394503-LV-061 and Gorhambury is only liable in relation to such obligations in so far as they relate to land edged blue on drawing number 394503-LV-061 and similarly any successor in title to Lafarge or to Gorhambury shall only be liable in relation to obligations which relate to the relevant part of the Land to which it is a successor in title; and
- (d) the obligations contained in this Deed shall not be binding upon the owner, lessee or occupier of any Unit within the Development.

**4. LORRY ROUTING SCHEME RESTRICTING HGV MOVEMENTS ON WATLING STREET AND HARPER LANE**

4.1 The Owners covenant for the benefit of the County Council that subject to receiving from the County Council the Lorry Routing Contribution Notice referred to in clause 4.2 below within 12 months following the Commencement of the Development:

- (a) none of the Units shall be First Occupied and the works on Area 2 which form part of the Development shall not serve any of the floorspace in the Units until the Lorry Routing Contribution has been paid to the County Council;

- (b) to give the County Council reasonable assistance with the introduction of the Lorry Routing Contribution Measures.

4.2 The Lorry Routing Contribution Notice referred to in clause 4.1 shall be a written and legally enforceable undertaking from the County Council expressly for the benefit of the Owners stating that the County Council will:

- (a) spend the Lorry Routing Contribution only for the provision and ongoing management and maintenance of the Lorry Routing Contribution Measures; and
- (b) return to the payer any unexpended part of the Lorry Routing Contribution with interest accrued thereon on the fifth anniversary of payment of the Lorry Routing Contribution.

**5. HGV ENTRY/EXIT TO/FROM AREA 1**

5.1 The Owners covenant for the benefit of the County Council that none of the Units shall be occupied until the Owners have implemented a scheme to ensure that Heavy Goods Vehicles servicing the Units or the Intermodal Terminal shall only enter or exit Area 1 at point A on the Highways Plan (referred to in the conditions attached to the Planning Permission) except for any HGV entering or exiting Area 1 which is servicing the Units or the Intermodal Terminal and which is servicing commercial premises located on or in the vicinity of the A5183 south of Frogmore.

5.2 The scheme shall provide for appropriate measures to be taken and penalties to be enforced in respect of Heavy Goods Vehicles which do not comply with the scheme.

**6. TRAFFIC MANAGEMENT AND ENVIRONMENTAL IMPROVEMENTS TO A5183 WITHIN PARK STREET AND FROGMORE**

6.1 The Owners covenant for the benefit of the County Council that subject to receiving from the County Council the Park Street/Frogmore Environmental Improvements Contribution Notice referred to in clause 6.2 below within 12 months from the Commencement of the Development:

- (a) none of the Units shall be First Occupied and the works on Area 2 which form part of the Development shall not serve any of the floorspace in the Units until the Park Street/Frogmore Environmental Improvements Contribution has been paid to the County Council;
- (b) to give to the County Council reasonable assistance with the introduction of the Park Street/Frogmore Environmental Improvements.

6.2 The Park Street/Frogmore Environmental Improvements Contribution Notice referred to in clause 6.1 shall be a written and legally enforceable undertaking from the County Council expressly for the benefit of the Owners stating that the County Council will:

- (a) spend the Park Street/Frogmore Environmental Improvements Contribution only for the provision of the Park Street/Frogmore Environmental Improvements; and
- (b) return to the payer any unexpended part of the Park Street/Frogmore Environmental Improvements Contribution with interest accrued thereon on the fifth anniversary of payment of the Park Street/Frogmore Environmental Improvements Contribution.

**7. IMPROVEMENTS TO FACILITIES AT PARK STREET RAILWAY STATION**

7.1 The Owners covenant for the benefit of the County Council that subject to receiving from the County Council the Park Street Railway Station Improvements Contribution Notice referred to in clause 7.2 below within 12 months from the Commencement of the Development:

- (a) none of the Units shall be First Occupied and the works on Area 2 which form part of the Development shall not serve the Units until the Park Street Railway Station Improvements Contribution has been paid to the County Council;
- (b) to give to the County Council reasonable assistance with the introduction of the Park Street Railway Station Improvements.

7.2 The Park Street Railway Station Improvements Contribution Notice referred to in clause 7.1 shall be a written and legally enforceable undertaking from the County Council expressly for the benefit of the Owners stating that the County Council will:

- (a) spend the Park Street Station Improvements Contribution only for the provision of the Park Street Railway Station Improvements;
- (b) return to the payer any unexpended part of the Park Street Station Improvements Contribution with interest accrued thereon on the fifth anniversary of payment of the Park Street Railway Station Improvements Contribution.

**8. IMPROVEMENTS TO ST ALBANS TO WATFORD JUNCTION BRANCH RAILWAY LINE**

8.1 The Owners covenant for the benefit of the County Council that subject to receiving from the County Council the Branch Railway Line Improvements Contribution Notice referred to in clause 8.2 below within 12 months from the Commencement of the Development none of the Units shall be First Occupied and the works on Area 2 which form part of the Development shall not serve the Units until the Branch Railway Line Improvements Contribution has been paid to the County Council.

8.2 The Branch Railway Line Improvements Contribution Notice referred to in clause 8.1 shall be a written and legally enforceable undertaking from the County Council expressly for the benefit of the Owners stating that the County Council will:

- (a) spend the Branch Railway Line Improvements Contribution only for the provision of the Branch Railway Line Improvements or pass such contribution on to the body responsible for implementing such improvements subject to an enforceable commitment by such body that the Contribution will only be spent on the improvements;
- (b) return to the payer any unexpended part of the Branch Railway Line Improvements Contribution with interest accrued thereon on the fifth anniversary of payment of the Branch Railway Line Improvements Contribution.

9. **SITE MANAGEMENT – RAIL PROMOTION**

9.1 The Owners covenant for the benefit of the Council that none of the Units shall be First Occupied and the works on Area 2 which form part of the Development shall not serve the Units until the Travel and Freight Monitoring and Management Plan Co-ordinator has been appointed with an express responsibility for the promotion of rail freight at the Development and to the surrounding area such that the Travel and Freight Monitoring and Management Plan Co-ordinator shall:

- (a) facilitate discussions between occupiers of the Units to enable them to consider the consolidating of loads as between occupiers of Units;
- (b) provide an interface between occupiers of the Units and rail freight service providers;
- (c) monitor the operation and use of the Intermodal Terminal by occupiers of the Units.

9.2 The Owner covenants with the Council to provide the Rail Subsidy Fund and to procure that the Travel and Freight Monitoring and Management Plan Co-ordinator shall apply such Fund towards measures to promote rail usage at the Development such measures to comprise:

- (a) payments to occupiers of the Units as contributions towards the costs of using non-standard rail wagons; and
- (b) such other rail promotion measures as are appropriate to the needs of the occupiers of the Units.

9.3 The Rail Subsidy Fund shall be provided and applied towards the stated purposes until the date on which the average number of trains arriving at and leaving Area 1 over a three month period exceeds 4 per 24 hour weekday period.

9.4 Notwithstanding clause 9.3 the Rail Subsidy Fund shall be reduced to £1million (one million pounds) upon completion of the Midland Gauge Enhancement Works (as defined in the conditions attached to the Planning Permission) and the reduced fund shall continue to be available until the date on which the average number of trains arriving at and leaving Area 1 over a three month period exceeds 4 per 24 hour weekday period.

**10. SITE MANAGEMENT – SERVICE CHARGE REGIME**

10.1 The Owners covenant for the benefit of the Council that none of the Units nor the Intermodal Terminal shall be First Occupied and the works on Area 2 which form part of the Development shall not serve the Units unless there shall have been included within the Service Charge for such Unit and for the Intermodal Terminal provision for payment of a proper proportion of the cost of the operation and maintenance of the fixed rail infrastructure within the Development and the branch line to the Midland Mainline and such costs shall be divided between the occupiers of the Units and the Intermodal Terminal irrespective of the amount of usage of rail by such occupier.

**11. FUNDING OF IMPLEMENTATION OF THE COUNTRYSIDE MANAGEMENT PLAN AND THE LANDSCAPE MANAGEMENT PLAN**

11.1 The Owners covenant for the benefit of the Council that none of the Units shall be First Occupied and the works on Area 2 which form part of the Development shall not become fully operational unless there shall have been included within the Service Charge for such Unit provision for payment of an amount which shall produce over time (together with the Service Charges payable by the occupiers of all of the other Units) sufficient funds to meet the costs of managing and maintaining the Country Park in accordance with the Countryside Management Plan and the Landscape Management Plan approved pursuant to the conditions attached to the Planning Permission.

11.2 The Owners shall retain such Service Charge payments in a separately identifiable account which contains only such Service Charge payments.

11.3 The Owners covenant for the benefit of the Council that they shall not (save in respect of a disposal to the Developer) dispose of the freehold interest of any land within Areas 3 – 8 respectively unless the Owners have first received written confirmation from the Council of its agreement to a scheme to ensure the provision of long term funding in relation to the costs of managing and maintaining the Country Park in accordance with the Countryside Management Plan and the Landscape Management Plan approved pursuant to the conditions attached to the Planning Permission.



**12. LEASE PROVISIONS ON NOISE RESTRICTIONS**

12.1 The Owners covenant for the benefit of the Council that:

- (a) none of the Units or the Intermodal Terminal shall be First Occupied and the works on Area 2 which form part of the Development shall not become fully operational unless there shall have been included in the lease of such Unit or the Intermodal Terminal an obligation that the tenant shall comply with the conditions attached to the Planning Permission (and any variation of such conditions) which controls noise during the operation of the Development.
- (b) the Owners shall enforce such lease provision if properly instructed to do so in writing by the Council in circumstances where there is a breach by the relevant tenant of such conditions attached to the Planning Permission.

**13. FOOTPATHS, BRIDLEWAYS AND CYCLEWAYS IMPROVEMENTS**

13.1 The Owners covenant for the benefit of the County Council that subject to receiving from the County Council the Footpaths, Bridleways and Cycleways Improvements Contribution Notice referred to in clause 13.2 below within 12 months from the Commencement of the Development none of the Units shall be First Occupied until the Footpaths, Bridleways and Cycleways Improvements Contribution has been paid to the County Council.

13.2 The Footpaths, Bridleways and Cycleways Improvements Contribution Notice referred to in clause 13.1 shall be a written and legally enforceable undertaking from the County Council expressly for the benefit of the Owners stating that the County Council will:

- (a) spend the Footpaths, Bridleways and Cycleways Improvements Contribution only for the provision of the Footpaths, Bridleways and Cycleways Improvements;
- (b) return to the payer any unexpended part of the Footpaths, Bridleways and Cycleways Improvements Contribution with interest accrued thereon on the fifth anniversary of payment of the Footpaths, Bridleways and Cycleways Improvements Contribution.

**14. AREA 1 AND AREA 2**

14.1 Subject to the Planning Permission containing a condition in the form set out in clause 14.2 the Owners covenant for the benefit of the Council and the County Council that the Development will not be Commenced on Area 2 until a binding obligation under Section 106 Town and Country Planning Act has been entered into the effect of which is to bind all those parts of Area 1, which are not bound by the terms of this Deed, by the obligations on the part of the Owners contained in this Deed (save for the obligations in this clause 14).

14.2 The condition referred to in clause 14.1 is as follows:

"The development shall not be commenced within Area 1 until the approved rail works forming part of the development have been commenced on Area 2".

**15. AGREEMENTS AND DECLARATIONS**

15.1 It is declared by the Owners as follows:

- (a) nothing contained or implied in this Deed shall prejudice or otherwise affect the rights powers duties and obligations of the Council or the County Council in their exercise of their respective statutory functions as local planning authority and local highway authority and that all rights powers duties and obligations under any public and private statutes byelaws and regulations may be as fully and effectually exercised as if the Council or County Council did not have the benefit of this Deed;
- (b) any notice or written communication to be served by one party upon any other pursuant to the terms of this Deed shall be deemed to have been validly served if transmitted by facsimile delivered by hand or sent by registered post or recorded delivery post to the other party at its address specified in this Deed or such other address as from time to time may be notified for the purpose by notice in writing and any such notice or other written communication to be given by the Council or the County Council shall be deemed valid and effectual if on its face it is signed on behalf of the Council or the County Council by an officer or duly authorised signatory thereof.

15.2 The covenants as contained herein take effect as provided by this Deed but none of the covenants shall be of any effect until Commencement of Development.

15.3 The Owners shall notify the Council and the County Council in writing within fourteen days following the Commencement of Development of such commencement and the notification shall cross refer to the notice provision in clauses 4.1, 6.1, 7.1, 8.1 and 13.1 provided that default in giving notice or confirming the date by exchange of correspondence shall not prevent Commencement of Development being taken to have occurred as a matter of fact or the obligations in this Deed conditional upon the Commencement of Development taking effect. The Owners shall also notify the Council and the County Council in writing within fourteen days following the occurrence of any Trigger Event provided that default in giving notice or confirming the date by exchange of correspondence shall not prevent the relevant Trigger Event being taken to have occurred as a matter of fact or the obligations in this Deed or the requirements under conditions attached to the Planning Permission conditional upon the relevant Trigger Event taking effect.

15.4 This Deed shall be registered in the register of Local Land Charges;

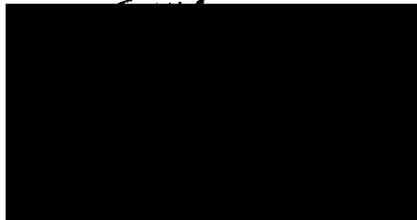
- 15.5 If the Planning Permission is quashed or revoked or otherwise withdrawn or expires before effluxion of time for the commencement of Development or is modified (other than by agreement with or at the request of the Developer) this Deed shall forthwith determine and cease to have effect and there shall be effected cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.
- 15.6 This Deed shall cease to have any effect if Planning Permission for the Development has not been implemented before the expiration of the period specified (or deemed to be specified) in such Planning Permission for the commencement of development pursuant to Sections 91 or 92 of the 1990 Act (or such later date as may be agreed in writing by the Council).
- 15.7 Nothing in this Deed shall be construed as affecting prohibiting or limiting any rights to develop any part of the Land in accordance with any other planning permission granted whether before or after the date of this Deed by the Council the County Council or the Secretary of State or any other competent authority.
- 15.8 If there is any conflict between the terms of this Deed and any conditions attached to the Planning Permission the latter shall take precedence.
- 15.9 Nothing in this Deed shall require the performance by the Owners of any obligations whatsoever in or upon over or under land outside the Land if that land is outside the ownership or control of the Owners.
- 15.10 No person other than a contracting party may enforce any provision of this Deed by virtue of the Contracts (Rights of Third Parties) Act 1999.
- 15.11 In the event of a Planning Challenge by any person other than the signatories to this Deed the provisions of this Deed shall be suspended only on the cessation of development until such time as the final determination of the Planning Challenge and shall (in circumstances where the Planning Permission is quashed on such final determination) have no further force and effect.
- 15.12 All sums payable by the Owners pursuant to clauses 4.1, 6.1, 7.1, 8.1 and 13.1 of this Deed shall be Index Linked.
- 15.13 Where this Deed contains a covenant by the Owners to give reasonable assistance on any matters, such reasonable assistance shall not involve the provision of financial assistance or the payment of additional financial contributions.
- 15.14 If any provision or part of any provision in this Deed shall be held to be invalid, illegal or unenforceable the validity, legality and enforceability of the remaining provisions or parts of provisions hereof shall not, in any way, be deemed thereby to be affected or impaired.

15.15 For the purposes of such parts of this Deed as may be subject to the law against perpetuities, the perpetuity period shall be a period of 80 years from the date hereof.

**IN WITNESS** whereof this Deed has been executed and delivered by the parties hereto on the date which appears at the head of this document.

Executed as a deed by )  
**Lafarge Aggregates Limited** )  
acting by: )

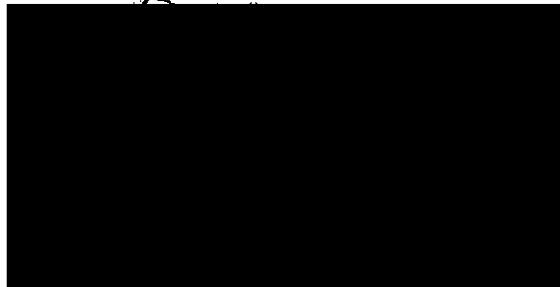
Director



~~Director/Secretary~~

Executed as a deed by )  
**The Gorhambury Estates** )  
**Company Limited** )  
acting by: )

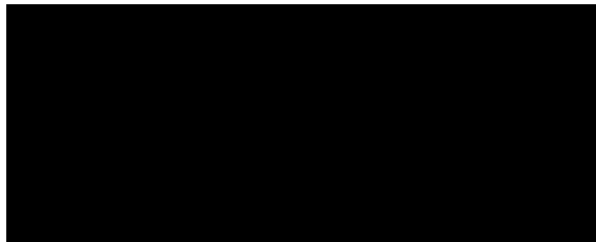
Director



Director/Secretary

Executed as a deed by )  
**HelioSlough Limited** )  
acting by: )

Director



Director/Secretary