



DATED 13th SEPTEMBER 2012
Ref: RM/JQ

LIVERPOOL CITY COUNCIL

And

THE ROYAL LIVERPOOL AND BROADGREEN UNIVERSITY HOSPITALS
NATIONAL HEALTH SERVICE TRUST

S.106 Agreement

RE: Planning Application Ref: 12F/0030
Land at Royal Liverpool University Hospital, Daulby Street

J McLoughlin
City Solicitor
Liverpool City Council

THIS DEED is made the 13th day of SEPTEMBER

2012

BETWEEN

Parties

1. Liverpool City Council of Municipal Buildings, Dale Street, Liverpool, L2 2DH
("The Council")
2. The Royal Liverpool and Broadgreen University Hospitals National Health Service Trust whose registered office is at Prescot Road, Liverpool, L7 8XP
("The Owner")

RECITALS

- 1 The Council is the Local Planning Authority for the purposes of this Deed for the area in which the land described in the First Schedule ("the Land") is situated and by whom the obligations contained in this Deed are enforceable.
- 2 The Owner is the owner in fee simple in possession of the Land.
- 3 The Owner has by application referenced 12F/0030 ("the Planning Application") applied to the Council for permission to develop the Land in the manner and for the uses set out in the Planning Application and in the plans specifications and particulars deposited with the Council and forming part of the Planning Application more particularly set out in the Second Schedule ("the Development").
- 4 The Council resolved to grant permission for the Development in accordance with the Planning Application subject to the making of this Agreement without which the planning permission for the Development would not have been granted.

NOW THIS DEED is made in pursuance of section 106 of the Town and Country Planning Act 1990 ("the Act") and is a planning obligation for the purposes of that section and WITNESSES as follows:

1. The Owner covenants with the Council to observe the restrictions specified in the Third Schedule
2. The Owner covenants to perform the obligations or activities specified in the Fourth Schedule
3. The Council covenants with the Owner to observe and perform the obligations or specified activities set out in the Fifth Schedule
4. It is agreed and declared as follows:
 - 4.1. Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.
 - 4.2. Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
 - 4.3. Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.
 - 4.4. 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.
 - 4.5. The headings and contents list are for reference only and shall not affect construction.
 - 4.6. The expression "the Council" and "the Owner" shall include their successors in title and assigns.

- 4.7. No person shall be liable for breach of a covenant contained in this Agreement after he shall have parted with all interest in the Land or the part in respect of which such breach occurs but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest.
- 4.8. The covenants contained in this Agreement shall take effect upon grant of the planning permission granted in accordance with the Planning Application.
- 4.9. Words denoting an obligation on the Owner to do any act, matter or thing include an obligation to procure that it be done and words placing the Owner under a restriction include an obligation not to cause or permit or suffer any infringement of the restriction.
- 4.10. If the permission granted pursuant to the Planning Application shall expire before the development is begun within the meaning of section 56 of the Act or shall at any time be quashed, revoked or otherwise withdrawn this Agreement shall forthwith determine and cease to have effect.
- 4.11. Nothing in this Agreement shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than one relating to the Development as specified in the Planning Application) granted (whether or not on appeal) after the date of this Agreement.
- 4.12. This Agreement is a local land charge and shall be registered as such.
- 4.13. The Council will upon the written request of the Owner at any time after the obligations of the Owner under the Agreement have been fulfilled issue written confirmation thereof and thereafter cancel all related entries in the Register of Local Land Charges.
- 4.14. No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.

4.15. 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.

5. All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.
6. No waiver (whether expressed or implied) by the Council or the 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 the Owner from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default.
7. This Deed is governed by and interpreted in accordance with the law of England and Wales.

IN WITNESS whereof these presents have been duly executed as a Deed by the Parties hereto the day and year first before written

FIRST SCHEDULE

"The Land"

Land at Royal University Liverpool Hospital, Daulby Street, registered at the Land Registry with title number MS357013 and shown edged in thick black on the attached plan.

SECOND SCHEDULE

"The Development"

Erection of a new build research and development centre (B1B innovation centre use class B1); internal new road alignments; car park; and soft and hard landscaping at Royal Liverpool University Hospital, Daulby Street.

THIRD SCHEDULE

Restriction

The Owner shall not begin the Development within the meaning of section 56 of the Act until it has performed the obligations or activities specified in the Fourth Schedule.

FOURTH SCHEDULE

Owner Obligations

- 1 The Owner shall pay to the Council prior to the Development being commenced within the meaning of section 56 of the Act the Commuted Sum in respect of the provision towards the future upgrade of the traffic light interchange junction of Daulby Street and Prescott Street, Liverpool.
- 2 The Owner shall pay to the Council upon the signing of this Agreement the sum of £1,000 (ONE THOUSAND POUNDS) for the Council's Legal Department's costs in preparation, execution and monitoring thereof.

"Commuted Sum" means the amount of £40,000 (FORTY THOUSAND POUNDS) if paid within one year after the date of this Agreement or the amount as calculated in accordance with the following formula:

£40,000 (FORTY THOUSAND POUNDS) multiplied by the Index for the month immediately preceding the date of payment and divided by the Index for the month immediately preceding the date of this Agreement

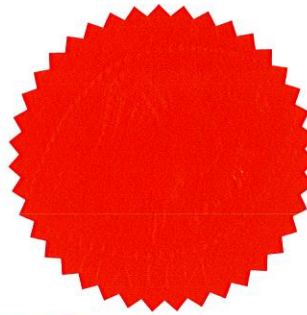
"Index" means the all items index figure of the Index of Retail Prices published by the Office for National Statistics or any successor, Ministry or Department.

FIFTH SCHEDULE

Council Obligations

1. The Council shall utilise the Commuted Sum for the provision or enhancement of the future upgrade of the traffic light interchange junction of Daulby Street and Prescott Street, Liverpool.
2. In the event the Commuted Sum or any part or parts thereof are not expended within five years of receipt then the sum or unexpended part will be repaid to the person who paid the sum or sums.

THE COMMON SEAL of the)
LIVERPOOL CITY COUNCIL)
was hereunto affixed:-)



Assistant City Solicitor



Executed by)
THE ROYAL LIVERPOOL AND BROADGREEN)
UNIVERSITY HOSPITALS NATIONAL)
HEALTH SERVICE TRUST)
in the presence of two directors)
or a director and the secretary)

Director *Ros Edwards*
Ros Edwards
Director of *HR & OD*

Director/Secretary
Madelaine Warburton
Corporate Secretary