

DATED 1st May 2012

- (1) BRITISH INTERNATIONAL HELICOPTER SERVICES LIMITED
- (2) MPE PARTNERS LIMITED
- (3) BANK OF IRELAND (UK) PLC
- (4) SAINSBURY'S SUPERMARKETS LTD
- (5) THE CORNWALL COUNCIL

AGREEMENT

relating to land known as
Eastern Green
Penzance
Cornwall
TR18 3AP

pursuant to
Section 106 of the
Town and Country Planning
Act 1990 (as amended)

THIS AGREEMENT is made the day of

1st May

2012

BETWEEN:

- (1) **BRITISH INTERNATIONAL HELICOPTER SERVICES LIMITED** (Company Registration No. 2575976) whose registered office is at Coldharbour Business Park Sherborne Dorset DT9 4JW ("the Owner") of the first part;
- (2) **MPE PARTNERS LIMITED** (Company Registration No. 2128556) of One Vine Street London SW1Y 4UH ("the First Mortgagee") of the second part;
- (3) **BANK OF IRELAND (UK) PLC** (Company Registration No 7022885) care of Bank of Ireland UK 1 Donegal Square South Belfast BT1 5LR ("the Second Mortgagee") of the third part;
- (4) **SAINSBURY'S SUPERMARKETS LTD** (Company Registration No 3261722) of 33 Holborn London EC1 N 2HT ("Sainsbury's") of the fourth part; and
- (5) **THE CORNWALL COUNCIL** of New County Hall Treyew Road Truro TR1 3AY ("the Council") of the fifth part

1. WHEREAS

- 1.1 The Owner is registered at the Land Registry as the freehold proprietor with Title Absolute of the Property under Title Numbers CL158595 and CL95153 subject to the charges to the Mortgagees
- 1.2 Sainsbury's has the benefit of an agreement for sale in relation to the Property registered in the Charges register of title number CL158595
- 1.3 The Planning Application for the Development of the Property was submitted to the Council and validated on 23 December 2010 and the Council has resolved to grant permission conditionally subject to conclusion of this Agreement
- 1.4 The Council considers it expedient in the interests of the proper planning of its area that the Development of the Property should be restricted or regulated in accordance with this Agreement
- 1.5 The First Mortgagee and the Second Mortgagee under legal charges dated 11 July 2006 and 8 October 2007 respectively (hereinafter called "the Legal Charges") are willing to enter into this Agreement to give their consent to the same

2. DEFINITIONS

In this Agreement the following expressions (arranged in alphabetical order) shall unless the context otherwise requires have the following meanings:-

- | | |
|-------------------------|---|
| "1990 Act" | the Town and Country Planning Act 1990 (as amended) or any statutory re-enactment thereof |
| "the Advertising Space" | an A-frame poster-sized display board |

"the Agreement"	this planning obligation made pursuant to Section 106 of the Act
"the Application"	a planning application in respect of the Development on the Property submitted to the Council for which a resolution to grant permission has been passed conditionally under reference number PA10/08714 subject to conclusion of this Agreement
"Build Cost Index"	the General Building Cost Index published by the Building Cost Information Service
"Bus Stops Works"	means the construction of on-street bus stops and shelters incorporating real time information screens on Jelbert Way and provision of pedestrian links between such bus stops and the Property
"Bus Subsidy Contribution"	means the sum of £25,105 for the purpose of provision of reduced fares on public buses serving the Development
"the Contributions"	the Bus Subsidy Contribution; A30 Eastern Green Improvement Contribution; Park and Ride Contribution; Parking Contribution Signage Contribution and Town Centre Contribution
"the Development"	comprehensive mixed use redevelopment incorporating a new retail store (Use Class A1) petrol filling station and car parking, a park and ride, business units (Use Class B1 B2 and B8) and associated development
"the Foodstore"	the retail store proposed as part of the Development
"Implementation Date"	the date on which the first Material Operation is carried out on the Property pursuant to the Planning Permission
"A30 Eastern Green Linkage Improvement Contribution"	means the sum of £53,150 for the purposes of linkage improvements on the A30 in the vicinity of the Property
"the Linkage Improvement Works"	means the construction of a new toucan crossing of the A30 Eastern Green in the vicinity of the Property
"Material Operation"	a material operation as defined by section 56(4) of the 1990 Act in relation to the Development but disregarding any of the following: <ul style="list-style-type: none"> (a) demolition of existing structures on the Property

- (b) decontamination treatment of the Property
- (c) site remediation work
- (d) ground works associated with decontamination treatment of the Property and site remediation works or archaeological investigation
- (e) the erection of boundary structures or other site security or safety measures
- (f) diversion and laying of services

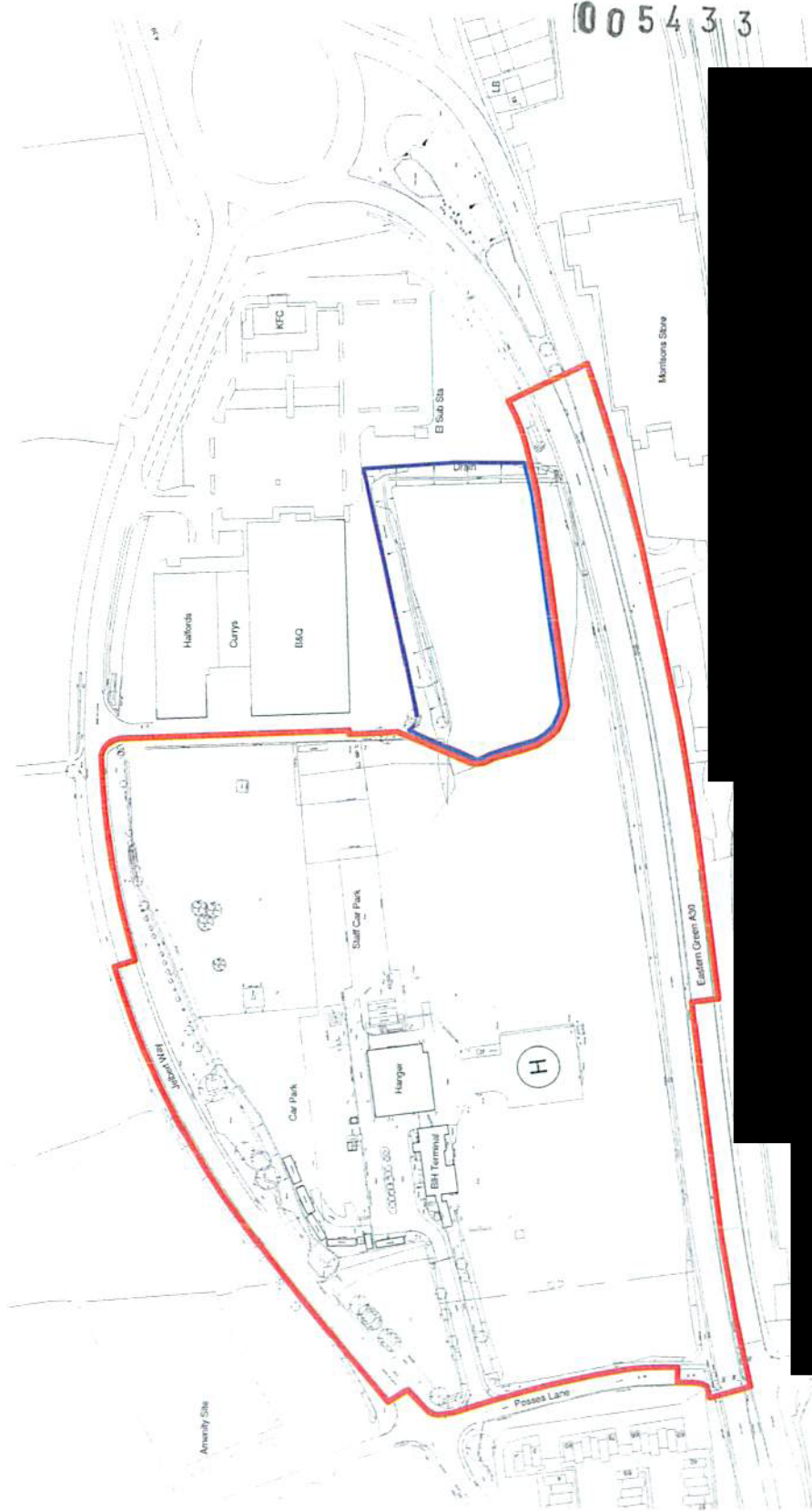
"Mortgagees"	means the First Mortgagee and the Second Mortgagee
"Occupation Date"	the first date when any part of the Development is Occupied
"Occupy"	occupation of any part of the Development in accordance with the Planning Permission (and "Occupied" and "Occupation" shall be construed accordingly)
"Opening for Trade"	the date upon which the Foodstore is open to the public for retail trading and "Open to Trade" and "Trade" shall be interpreted accordingly
"Option "	an option for the transfer of the Park and Ride Land in the form set out in the Schedule hereto or substantially similar thereto
"Option Trigger Notice"	means a notice served by the Council on the Owner within 10 months from commencement of the Development by the carrying out of a material operation as defined by section 56 (4) of the 1990 Act whereby the Council is granted the Option
"Park and Ride Contribution"	means the sum of £1,200,000.00 for the purpose of construction by the Council the Park and Ride Facility in Eastern Green
"Park and Ride Facility"	the park and ride facility as proposed within the Development
"Park and Ride Land"	means the land shown edged red on drawing SK40 annexed hereto
"Parking Contribution"	the sum of £152,000 for the purposes of provision by the Council of free or subsidised parking within Penzance Town centre

"the Parties"	means the Council the Owner and the Mortgagees
"the Payer"	means the payer to the Council of the Park and Ride Contribution
"Plan"	the plan annexed hereto
"the Planning Administration Fee"	means the Councils' charge to recover the expenses incurred by the Council in monitoring compliance with the obligations contained in this Deed
"the Planning Permission"	a planning permission granted for the Development
"Practical Completion"	means the certificate of practical completion of construction of the Park and Ride Facility
"the Property"	the land shown edged in red on the Plan annexed hereto save for those areas within the area edged red which are public highway
"the Secretary of State"	means the Secretary of State for Communities and Local Government or any other minister charged with performing the functions of the Secretary of State under the 1990 Act
"Signage Contribution"	the sum of £10,000 for the purposes of provision of replacement signage on the A30 Chy-An-Mor roundabout
"Town Centre Contribution"	means the sum of £249,500 to be applied by the Council in the amounts indicated in (a) to (e) below for the purposes of: <ul style="list-style-type: none"> (a) formulating a strategy of the improvement of the Town Centre (£20,000) (b) improvements to the public realm in the town centre (£130,000) (c) organisation of Town Centre events (£25,000) (d) promoting and marketing of the Town Centre (£25,000) (e) appointment of a town centre co-ordinator (£49,500)

Responsibility is not accepted for errors made by others in scaling from this drawing. All construction information should be taken from figures and dimensions only.

0mm

50mm



Stride Treglown

Norbury Court, The Millfields, Plymouth PL1 3LL
T 01752202088 F 01752202089 www.stride-treglown.co.uk

PROJECT

PENZANCE

Eastern Green

DRAWING TITLE

Site Location Plan

SCALE 1 : 2000 @ A3

DATE 10/11/10

DRAWN BY SB

CHECKED BY AS

DESIGNED BY

DRAWING NUMBER 31224

PROJECT NUMBER P001

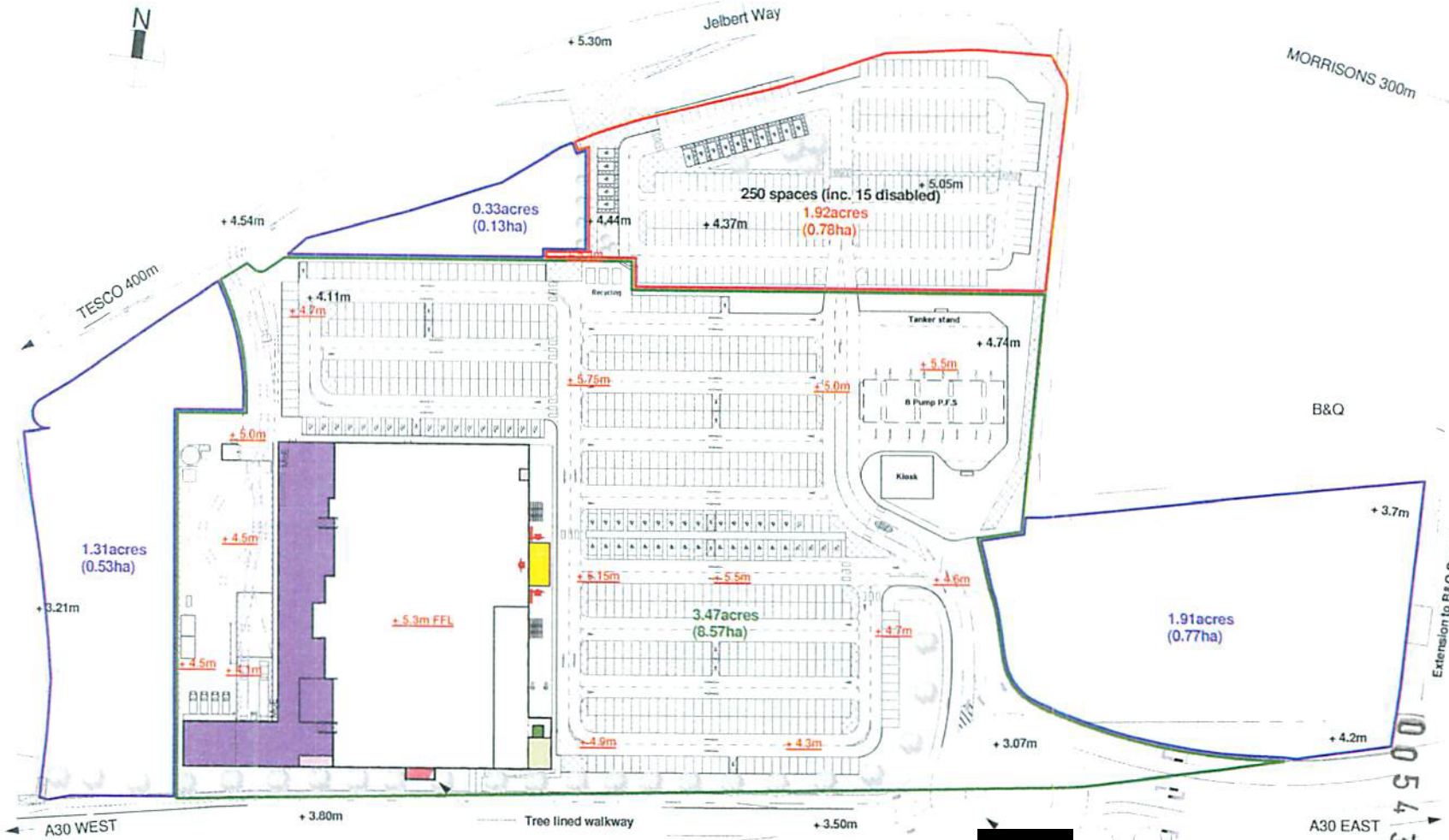
REVISION D

FOR DISCUSSION ONLY

The contents of this drawing are for illustrative purposes only. Final proposals to be confirmed

Key:

- Proposed Park and Ride Site Boundary
1.92 acres (0.78ha)
- Proposed SSL Site Boundary
8.57 acres (3.47ha)
- Land in other ownership
3.55 acres (1.43ha)
- +0.00 - Indicative Existing Levels
- +0.00 - Indicative Proposed Levels



Stride Treglown

Norbury Court, The Millfields, Plymouth PL1 3LL
 T 01752202089 F 01752202089 www.stridetreglown.co.uk

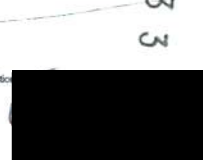
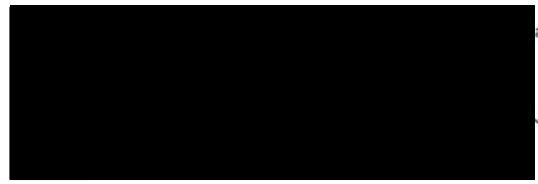
For Information

DRAWING
Park and Ride Land
 PROJECT
PENZANCE
 Eastern Green

Sainsbury's
 33 HOLBORN, LONDON, EC1N 2HT

DATE 07/03/12	DRAWING CHECK BH/AS	SCALE 1 : 1250	ORIGINAL A3
PROJECT 31224	DRAWING NUMBER SK40	REVISION	

Proposed Site Plan
 1 : 1250



3. NOW THIS DEED WITNESSETH AS FOLLOWS:-

- 3.1 This Agreement is made in pursuance of Section 106 of the Town and Country Planning Act 1990 and is a planning obligation for the purposes of Section 106 as aforesaid and shall be enforceable by the Council as local planning authority against the Owner as provided herein and against any person deriving title to any part of the Property from the Owner and insofar as it is not a planning obligation its provisions may be enforceable by the Council under any relevant statutory powers
- 3.2 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
- 3.3 Any reference to a specific statute or statutes include any statutory extension or modification amendment or re-enactment of such statute and any regulation or orders made under such statute
- 3.4 The clause and paragraph headings do not form part of this Agreement and shall not be taken into account in its construction or interpretation
- 3.5 It is hereby agreed between the Parties that save for the provisions of clause 6 hereof which shall come into effect on the date hereof the covenants undertakings and obligations contained within this Agreement shall become binding upon the Owner upon the Implementation Date
- 3.6 Nothing in this Agreement shall be construed as prohibiting limiting or affecting any right to develop any part of the Property in accordance with a planning permission (other than the Planning Permission) granted by the Council or the Secretary of State on appeal or by reference to him after the date of this Agreement and for the avoidance of doubt any operations works or development in accordance with such a planning permission shall not constitute a Material Operation under the terms of this Agreement
- 3.7 No person shall be liable for any breach of the covenants restrictions or obligations contained in this Agreement occurring after it has parted with its interest in the Property or the part in respect of which such breach occurs (but without prejudice to the liability of such person for any breach occurring prior to its parting with such interest)
- 3.8 The Council hereby agrees to grant the Planning Permission on the date hereof
- 3.9 The Parties save where the context states otherwise shall include their successors in title

4. OBLIGATIONS OF THE OWNER AND SAINSBURY'S

- 4.1 Sainsbury's and the Owner covenant with the Council as follows:
- 4.1.1 To notify the Council in writing of the date of implementation of the development within the meaning of section 56(4) of the 1990 Act
- 4.1.2 The Development shall not Open for Trade until;
- 4.1.2.1 the Contributions are paid to the Council; and

4.1.2.2 the Bus Stop Works and the Linkage Improvement Works are completed.

4.1.3 Within 21 days of the Foodstore being Open for Trade:

4.1.3.1 the Advertising Space shall be provided within the foyer of the Foodstore to enable businesses based in Penzance Town Centre to advertise at no cost; and

4.1.3.2 to thereafter maintain the Advertising Space unless otherwise agreed in writing with the Council

4.2 The Foodstore shall not Open for Trade until the Owner has granted the Option to the Council on the Option Terms save that this sub-clause 4.1.3 shall only have effect if the Council has served the Option Trigger Notice on the Owner

4.3 Service Provisions

4.3.1 Any notice or other written communication to be served upon or given by one party to any other under the terms of this Deed shall be deemed to have been validly served or given if transmitted by facsimile (and confirmed by transmission confirmation slip) delivered by hand or sent by recorded delivery post to the party upon whom it is to be served or to whom it is to be given or as otherwise notified for the purpose by notice in writing

4.3.2 The address for any notice or other written communication shall only be within the United Kingdom and is:

4.3.2.1 for the Sainsbury's at 33 Holborn London EC1N 2HT For the attention of Mr Ben Littman

4.3.2.2 for the Owner at the address indicated at paragraph (2) above for the attention of Peter Sorby

4.3.2.3 for the Council marked at the address indicated at paragraph (2) above for the attention of the Head of Planning & Regeneration

4.3.2.4 for the Mortgagees at the address indicated at paragraph (2) of this Deed

4.3.3 Any notice or other written communication to be given by the Council shall be deemed valid and effectual if on its face it is signed on behalf of the Council by an officer or duly authorised signatory

4.4 Indexation

There shall be paid at the same time as any payment is made to the Council an additional sum which is a sum equal to the difference in each case between the payment and a sum arrived at by increasing the payment by the percentage by which the Build Cost Index has increased between the date of this Agreement to the date the payment is received by the Council in each case (and for the purpose of calculating the increase the Build Cost Index for which most recent official figures published by the Office for National Statistics are available shall be deemed to be the Index prevailing at the date the payment is received by the Council) PROVIDED

THAT in the event of any change after the date of this Agreement the reference base used to compile the Build Cost Index after such change shall be the figure which would have been shown in the Retail Price Index if the reference base current at the date of this Agreement had been retained

5. OBLIGATIONS OF THE COUNCIL

- 5.1 The Council covenants with the Owner that upon receipt of any payments under this Agreement it will apply the principal and interest of such sums exclusively towards the purposes set out in this Agreement only provided that if the whole or any part of such sums have not been expended by the Council for the purposes set out in this agreement or substantially similar purposes at the expiration of a period of seven years from receipt in full of the payments the Council will forthwith pay the unexpended balance together with duly apportioned interest (such interest to be calculated from the date of payment to the Council to the date of repayment at the base rate from time to time of Lloyds TSB Bank plc) to the person who paid the financial contributions
- 5.2 To use the Park and Ride Contribution either for the purpose of
- 5.3 constructing the Park and Ride Facility on the Park and Ride Land in accordance with the Planning Permission; or
- 5.4 for constructing a park and ride facility on other land within the vicinity of the Property to be constructed only in accordance with a specification which has first been approved by the Payer
- 5.4.1 In expending the Park and Ride Contribution the Council will provide to the Payer upon request details of expenditure of the Park and Ride Contribution including (but not limited to) copies of invoices, certificates of payment, building contracts, professional appointments, appointments of sub-contracts, bills, vouchers, receipts and other documents evidencing expenditure of the Park and Ride Contribution
- 5.4.2 The Payer may by notice in writing to the Council seek further information or explanation as it may reasonably require in order to verify any item of expenditure in relation to the Park and Ride Contribution
- 5.4.3 Following Practical Completion of the Park and Ride Facility the Council shall pay to the Payer any unexpended balance of the Park and Ride Contribution together with apportioned interest (such interest to be calculated from the date of payment to the Council to the date of repayment at the base rate from time to time of Lloyds TSB Bank plc)
- 5.4.4 In the event that the Signage Contribution, the Town Centre Contribution, the Parking Contribution or the Park & Ride Contribution is not fully expended then the Council may use such unexpended sums at its discretion for substantially similar purposes where required in order to mitigate the Development
- 5.4.5 The Council shall provide a paper audit trail for all expenditure made under 5.4.4 to the party who paid the contribution to the Council

6. IT IS HEREBY AGREED AND DECLARED BY THE PARTIES HERETO THAT:-

- 6.1 This Agreement shall be registered as a Local Land Charge and registered in the Charges Register at Land Registry with office copies being provided to the council within 14 days of registration
- 6.2 Sainsbury's agree to pay the Council its reasonable legal costs incurred in preparing this Agreement on or prior to the date of completion of the Agreement
- 6.3 The Owner shall pay to the Council the Planning Administration fee of £250
- 6.4 The Parties hereto shall act in good faith and shall co-operate with the other to facilitate the discharge and performance of all obligations contained herein and in particular the Owner shall comply with any reasonable requests of the Council to provide documentation within the Owner's possession for the purposes of monitoring compliance with the obligations contained herein
- 6.5 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 Owner) this Agreement shall forthwith determine and cease to have effect and the Council will effect cancellation of all entries made in the Register of Local Land Charges in respect of this Agreement
- 6.6 Where any consent approval or agreement is required under the terms of this Agreement such consent approval or agreement shall not be unreasonably withheld or delayed
- 6.7 The Mortgagees confirm that their interest in the Property will henceforth be subject to the terms of this Agreement and that they hereby consent to being bound by the covenants and obligations contained herein should they become successor in title or a mortgagee in possession of the Property or any part thereof before the planning obligations contained in this Agreement have been performed in full
7. The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement

8. DISPUTE PROVISIONS

- 8.1 In the event of any dispute or difference arising between any of the parties to this Deed in respect of any matter contained in this Deed such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of an agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute and such person shall act as an expert whose decision shall be final and binding on the parties in the absence of manifest error and any costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties in equal shares.
- 8.2 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 8.1 or as to the appropriateness

of the professional body then such question may be referred by either part to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert and his decision shall be final and binding on all parties in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares.

- 8.3 Any expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty-eight working days after the conclusion of any hearing that takes place or twenty-eight working days after he has received any file or written representation.
- 8.4 The expert shall be required to give notice to each of the said parties requiring them to submit to him within ten working days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further ten working days.

IN WITNESS whereof the Council has caused its Common Seal to be hereunto affixed and the Owner and Sainsbury's and the Mortgagees have executed this instrument as a Deed the day and year first before written

SCHEDULE 1

("the Option Agreement")

2012

Option Agreement

British International Helicopter Services Ltd ⁽¹⁾
and

The Cornwall Council ⁽²⁾

DATED

PARTIES

- (1) British International Helicopter Services Limited (Company No. 2575976) whose registered office is at Coldharbour Business Park, Sherborne, Dorset, DT9 4JW (**Owner**).
- (2) The Cornwall Council of County Hall, Treyew Road, Truro, TR1 3AY (**Council**).

AGREED TERMS

1. INTERPRETATION

- 1.1 In this Agreement the words below have the meanings next to them unless the context requires otherwise:

Completion	actual completion of the sale and purchase pursuant to the exercise of the Option.
Contract Terms	the terms of sale and purchase of the Property set out in Schedule 1.
Council's Solicitors	[NAME, ADDRESS, FAX NUMBER, REFERENCE] or such other conveyancer as may be notified from time to time in writing to the Owner.
Development	means a development of the Property, or any part of it, following the grant of planning permission for change of use, carried out by the Owner within five years of the Owner exercising the Owner's Option
Implementation Date	as defined in the Section 106 Agreement

Market Value	the price for which the Property as a whole should be sold assuming a willing buyer and a willing seller in an arm's length transaction after proper marketing wherein the parties have each acted knowledgeably, prudently and without compulsion.
Option	the option granted by the Owner to the Council by this agreement.
Option Notice	written notice served by the Council (or by the Council's Solicitors on behalf of the Council) on the Owner (or on the Owner's Solicitors on behalf of the Owner) within the Option Period requiring Completion to take place.
Option Period	the period from the date of this Agreement until the earlier of: <ul style="list-style-type: none"> (a) 5 years from the Implementation Date; (b) the Council acquiring or committing to a Park and Ride facility other than at the Property which benefits Penzance.
Owner's Solicitors	Bond Pearce LLP of Ballard House, West Hoe Road, Plymouth, PL1 3AE Reference: CFM1/371182.1 or such other conveyancer as may be notified from time to time in writing to the Council.
Park and Ride Contribution	shall have the same meaning as set out in the Section 106 Agreement.
Park and Ride Facility	shall have the same meaning as set out in the Section 106 Agreement.
Property	the freehold property at Eastern Green, Penzance, Cornwall TR18 3AP shown more particularly delineated in red on the plan attached to this Agreement and being part of the land registered at HM Land Registry with title absolute under title numbers CL158595 and CL95153.
Purchase Price	£1 (One Pound) (exclusive of VAT).
Section 106 Agreement	the Agreement dated 2012 made between (1) the Owner (2) MPE Partners Limited (3) Bank of Ireland (UK) Plc (4) Sainsbury's Supermarkets Limited (5) the Council
VAT	value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement tax and any similar additional

tax.

Working Day any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or a statutory Bank Holiday.

- 1.2 The rules of interpretation in this clause apply in this agreement.
- 1.3 Clause and schedule headings do not affect the interpretation of this agreement.
- 1.4 Except where a contrary intention appears, a reference to a clause or a schedule is a reference to a clause of, or schedule to this agreement.
- 1.5 Unless otherwise specified, a reference to a law is a reference to it as it is in force for the time being, taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.6 A **person** includes a corporate or unincorporated body.
- 1.7 Any obligation in this agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.8 Any reference to the **Owner** includes its successors in title.

2. OPTION

- 2.1 The Owner grants the Council an option during the Option Period to buy the Property at the Purchase Price.
- 2.2 The Option is personal to the Council. The Council may not assign, sublet, share or part with the benefit of this agreement or any part of it.

3. EXERCISE OF THE OPTION

- 3.1 The Council may exercise the Option at any time during the Option Period by serving an Option Notice on the Owner.
- 3.2 The Option may only be exercised in respect of the whole of the Property and not in respect of part only.
- 3.3 By exercising the Option, the Council will be acknowledging that the Owner has given the Council, and others authorised by the Council, permission and the opportunity to inspect, survey and carry out investigations as to the condition of the Property and that the Council has formed its own view as to the condition and suitability of the Property for the Council's purposes.

4. SALE AND PURCHASE

- 4.1 If the Option is exercised in accordance with the terms of this agreement, the Owner will sell and the Council will buy the Property for the Purchase Price on the Contract Terms.
- 4.2 The Council cannot require the Owner to:

- 4.2.1 transfer the Property or any part of it to any person other than the Council;
or
- 4.2.2 transfer the Property in more than one parcel or by more than one transfer;
or
- 4.2.3 apportion the Purchase Price between different parts of the Property.

5. TRANSFER

The transfer to the Council pursuant to the exercise of the Option will be in the form annexed to this agreement.

6. VAT

- 6.1 Each amount stated to be payable by the Council to the Owner under or pursuant to this agreement is exclusive of VAT (if any).
- 6.2 If VAT is chargeable on any supply made by the Owner under or pursuant to this agreement, the Council will pay the Owner an amount equal to that VAT as additional consideration on the date that the supply is made.

7. COMPLETION

Completion will take place on the date 20 Working Days after the date of service of the Option Notice.

8. OWNER'S OPTION

- 8.1 The Council grants the Owner an option to reacquire the Property (**the Owner's Option**), exercisable upon the occurrence of either:
 - 8.1.1 the Council failing to construct the Park and Ride Facility within 12 months of Completion or complete it and commence its use as a park and ride facility within 36 months of Completion; or
 - 8.1.2 the Council ceasing to use the Property for a park and ride facility.
- 8.2 If the Owner exercises the Owner's Option, the Council will sell and the Owner will buy the Property for the Purchase Price on the Contract Terms.
- 8.3 In the event that the Owner exercises the Owner's Option after the tenth anniversary of the Council exercising its option and there is a Development then in addition to the Purchase Price the Owner will pay 10% of the net uplift in Market Value of the Property (**the Net Uplift Payment**) calculated as follows:

$$\frac{A - B}{10}$$

Where

A is the Market Value of the Property with the benefit of the relevant planning permission as at the date that such relevant planning permission is granted; and

B is the Market Value of the Property without the benefit of the relevant planning permission as at the date that such relevant planning permission is granted .

- 8.4 If the parties fail to agree the Net Uplift Payment, either party may refer the matter to an independent Chartered Surveyor appointed jointly by the parties with at least 10 years experience in valuing property similar to the Property.
- 8.5 In default of agreement on the identity of the Chartered Surveyor, either party may apply to the President of the Royal Institution of Chartered Surveyors requesting that an appointment be made.
- 8.6 The Chartered Surveyor will act in accordance with the Arbitration Act 1996 and the costs of the arbitration will be payable in the proportions determined by the Chartered Surveyor. The parties agree to pay their respective share of the costs as so determined.
- 8.7 In default of agreement being reached by the parties, the Net Uplift Payment will be the figure determined by the Chartered Surveyor.

9. ENTIRE AGREEMENT

- 9.1 This agreement constitutes the entire agreement and understanding of the parties and supersedes any previous agreement or understanding between them relating to the subject matter of this agreement.
- 9.2 The Council acknowledges and agrees that in entering into this agreement, it does not rely on and will have no remedy in respect of any statement, representation, warranty, collateral agreement or other assurance (whether made negligently or innocently) of any person (whether party to this agreement or not) other than:
- 9.2.1 as expressly set out in this agreement; or
- 9.2.2 in any written replies which the Owner's Conveyancer has given to any enquiries raised by the Council's Conveyancer before the date of this agreement.
- 9.3 Nothing in this clause will, however, operate to limit or exclude any liability for fraud.

10. JOINT AND SEVERAL LIABILITY

Where the Council is more than one person, the Owner may release or compromise the liability of any of those persons under this agreement or grant time or indulgence without affecting the liability of any other of them.

11. NOTICES

- 11.1 Any notice (including the Option Notice) given under this agreement must be in writing and signed by or on behalf of the party giving it.
- 11.2 Any notice or document to be given or delivered under this agreement must be given by delivering it personally or sending it by prepaid first class post, or recorded delivery, or fax to the address and for the attention of the relevant party as follows:

11.2.1 to the Owner at:

Coldharbour Business Park Sherborne Dorset DT9 4JW Fax No: 01736 350771

marked for the attention of Tony Jones, Managing Director

or to such other address or fax number, or for the attention of such other person as was last notified in writing by the Owner to the Council.

11.2.2 to the Council at:

[ADDRESS]

[Fax No: [NUMBER]]

marked for the attention of [POSITION]

or to such other address [or fax number], or for the attention of such other person, as was last notified in writing by the Council to the Owner.

11.3 Any such notice will be deemed to have been received:

11.3.1 if delivered personally, at the time of delivery;

11.3.2 in the case of prepaid first class post or recorded delivery, on the second Working Day after posting; and

11.3.3 in the case of fax, at the time of transmission.

11.4 In proving service it will be sufficient to prove that delivery was made or that the envelope containing the notice was properly addressed and posted as a prepaid first class or recorded delivery letter or that the fax message was properly addressed and transmitted, as the case may be.

12. RIGHTS OF THIRD PARTIES

A person who is not a party to this agreement will not have any rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act 1999.

13. GOVERNING LAW AND JURISDICTION

13.1 This agreement 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 and Wales.

13.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

This agreement has been entered into on the date stated at the beginning of it.

SCHEDULE 1

Contract Terms

1. DEPOSIT

No deposit shall be paid

2. CAPACITY

The Property is sold with full title guarantee

3. ENCUMBRANCES

The Property is sold subject to and (where appropriate) with the benefit of the matters contained or referred to in the register of title of title numbers CL158595 and CL95153 as at the date hereof.

4. POSSESSION

The Property is sold with vacant possession on completion.

5. INCORPORATION OF CONDITIONS OF SALE

The Property is sold subject to the Standard Commercial Property Conditions (4th Edition) so far as they are not varied by or inconsistent with this agreement and are applicable to a sale by a private treaty

6. COMPLETION DATE

The completion date shall be 20 working days after the relevant party shall have given notice to the other party in writing of the exercise of its option

Executed as a deed by British International Helicopter Services Limited acting by a director, in the presence of:

.....

Director

.....

Name

Address

Occupation

Executed as a deed by Cornwall Council acting by

.....

, in the presence of:

.....

Name

Address

Occupation

Land Registry

Transfer of part of registered title(s)

TP1

If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

Leave blank if not yet registered.

When application for registration is made these title number(s) should be entered in panel 2 of Form AP1.

Insert address, including postcode (if any), or other description of the property transferred. Any physical exclusions, such as mines and minerals, should be defined.

Place 'X' in the appropriate box and complete the statement.

For example 'edged red'.

For example 'edged and numbered 1 in blue'.

Any plan lodged must be signed by the transferor.

Give full name(s).

Complete as appropriate where the transferor is a company.

Give full name(s).

Complete as appropriate where the transferee is a company. Also, for an overseas company, unless an arrangement with Land Registry exists, lodge either a certificate in Form 7 in Schedule 3 to the Land Registration Rules 2003 or a certified copy of the constitution in English or Welsh, or other evidence permitted by rule 183 of the Land Registration Rules 2003.

Each transferee may give up to three addresses for service, one of which must be a postal address whether or not in the UK (including the postcode, if any). The others can be any combination of a postal address, a UK DX box number or an electronic address.

	<p>1 Title number(s) out of which the property is transferred: CL158595 and CL95153</p>
	<p>2 Other title number(s) against which matters contained in this transfer are to be registered or noted, if any:</p>
	<p>3 Property: Land at Jelbert Way, Penzance</p> <p>The property is identified</p> <p><input checked="" type="checkbox"/> on the attached plan and shown: edged red on plan 1</p> <p><input type="checkbox"/> on the title plan(s) of the above titles and shown:</p>
	<p>4 Date:</p>
	<p>5 Transferor: British International Helicopter Services Limited <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix: 2575976 <u>For overseas companies</u> (a) Territory of incorporation: (b) Registered number in the United Kingdom including any prefix:</p>
	<p>6 Transferee for entry in the register: The Cornwall Council <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix: <u>For overseas companies</u> (a) Territory of incorporation: (b) Registered number in the United Kingdom including any prefix:</p>
	<p>7 Transferee's intended address(es) for service for entry in the register:</p>

Place 'X' in the appropriate box. State the currency unit if other than sterling. If none of the boxes apply, insert an appropriate memorandum in panel 12.

Place 'X' in any box that applies.

Add any modifications.

Where the transferee is more than one person, place 'X' in the appropriate box.

Complete as necessary.

Use this panel for:

- definitions of terms not defined above
- rights granted or reserved
- restrictive covenants
- other covenants
- agreements and declarations
- any required or permitted statements
- other agreed provisions.

The prescribed subheadings may be added to, amended, repositioned or omitted.

Any other land affected by rights granted or reserved or by restrictive covenants should be defined by reference to a plan.

8	The transferor transfers the property to the transferee
9	Consideration <input checked="" type="checkbox"/> The transferor has received from the transferee for the property the following sum (in words and figures): one pound £1.00 <input type="checkbox"/> The transfer is not for money or anything that has a monetary value <input type="checkbox"/> Insert other receipt as appropriate:
10	The transferor transfers with <input checked="" type="checkbox"/> full title guarantee <input type="checkbox"/> limited title guarantee
11	Declaration of trust. The transferee is more than one person and <input type="checkbox"/> they are to hold the property on trust for themselves as joint tenants <input type="checkbox"/> they are to hold the property on trust for themselves as tenants in common in equal shares <input type="checkbox"/> they are to hold the property on trust:
12	Additional provisions Definitions Retained Land means the land shown edged blue on Plan 1 registered with title numbers (CL158595 and CL95153) Plan 1 means the plan attached to this transfer and marked Plan 1 Adjoining Land means the land transferred by way of a transfer dated _____ and made between the Transferor (1) and Sainsbury's Supermarkets Ltd (2) and as shown edged green on Plan 1 (Transfer) Adjoining Owner means the owner from time to time of the Adjoining Land Pedestrian Access means the pedestrian access as defined in the Transfer Service Installations means the sewers drains channels pipes water courses gutters down spouts soakaways wires cables conduits and other apparatus for the supply of water electricity gas and telephone and for the disposal of sewerage and foul and surface water

Any other land affected should be defined by reference to a plan and the title numbers referred to in panel 2.

Rights granted for the benefit of the property

Any other land affected should be defined by reference to a plan and the title numbers referred to in panel 2.

Rights reserved for the benefit of other land

There shall be reserved for the benefit of the Retained Land and the Adjoining Land:

(a) a right of way at all times and for all purposes over the Property to obtain access to Jelbert Way

(b) the right to the free passage and running of water soil or gas and electricity from and to the Retained Land and the Adjoining Land and each of them through along and into the Service Installations which are now (in respect of those parts of the Property not built upon) or may during the period commencing on the date of this Transfer and enduring for 80 years (which said period shall be the perpetuity period applicable for this Transfer) be laid or constructed in on or under the Property and which are used by the Retained Land and/or the Adjoining Land either exclusively or in common with the Property together with all easements rights and privileges necessary and proper for inspecting cleaning repairing maintaining and renewing the same the owner of the Retained Land and/or the Adjoining Land making good all damage caused by the exercise of such rights

(c) the right of lateral and subjacent support and protection for the Retained Land and the Adjoining Land and each of them by and from the Property

(d) the right to have the foundations eaves and gutters of any buildings which are situated on the Retained Land and/or the Adjoining Land underlying or overhanging any adjoining parts of the Property

(e) the right to enter onto any part of the Property if and when necessary for the purpose of repairing and maintaining the Retained Land and/or the Adjoining Land (and the Pedestrian Access) subject to the owner of the property giving any affected occupiers not less than 48 hours notice (except in case of an emergency) of their intention to exercise the right and the owner of the Retained Land and/or the Adjoining Land (as appropriate) making good all such damage caused by the exercise of such right

(f) the right to carry out any works whatsoever on any part of the Retained Land and/or the Adjoining Land in such manner as the Transferor and/or the Adjoining Owner shall think fit notwithstanding any interference to light or air to the Property or any

part thereof

(g) the right to construct the Pedestrian Access on the Retained Land during the perpetuity period and the right to pass and repass at all times and for all purposes in connection with the Retained Land and/or the Adjoining Land on foot only over and along the Pedestrian Access (upon the same being constructed by the Adjoining Owner) subject to the Transferor and/or the Adjoining Owner (as appropriate) paying the Transferee a fair and reasonable proportion of the cost of the repair and maintenance of the same as the Transferee shall demand from time to time (such proportion to be conclusively determined by the Transferee acting reasonably)

(h) the right for the benefit of the Retained Land and the Adjoining Land to pass and repass in case of emergency (including in the event of a flood) over such part or part of the Property as reasonably necessary and as designated by the Transferee (acting reasonably) from time to time

Include words of covenant.

Restrictive covenants by the transferee

12.1 For the benefit and protection of the Retained Land and the Adjoining Land the Transferee with the intent to bind itself and its successors in title for the time being of the Property covenants to the intent that the burden of this covenant may run with and bind the whole of the Property and each and every part of it and to the intent that the benefit thereof may be annexed to and run with the Retained Land and the Adjoining Land and each and every part thereof with the Transferor and the Adjoining Owner:

(a) not to use the Property for any use other than for a park and ride facility (Permitted Use).

(b) to commence the Permitted Use at the whole or substantially the whole of the Property within 6 months of the date of this transfer.

(c) following commencement of the Permitted Use in accordance with clause 12.1 (b) to ensure there is no cessation in the use of the whole or substantially the whole of the Property for the Permitted Use.

(d) not to use the whole or any part of the Property for any purposes connected with the retail sale of food in competition with the Adjoining Owner for a period of five years from the date of the Transfer.

12.2 Prior to the disposal of the whole or any part of the Property (including the grant of any leases licenses mortgages or charges) the Transferee shall first procure that the disponee enters into a deed of covenant with the Transferor in such form as the parties (acting reasonably) shall approve to observe and perform the obligations on the part of the Transferee contained in clause 12.1 of this Transfer.

12.3 The Transferor and the Transferee jointly apply to the Chief Land Registrar to enter a

restriction in the proprietorship register of the title to the Property as follows:

"No disposition of the registered estate by the proprietor of the registered estate or by the registered proprietor of any registered charge is to be registered without a certificate signed on behalf of British International Helicopter Services Limited by its secretary or conveyancer that the provisions of clause 12.2 of a Transfer of the Property dated [] between British Helicopter Services Limited (1) and Cornwall Council (2) have been complied with".

Include words of covenant.

Restrictive covenants by the transferor

Insert here any required or permitted statements, certificates or applications and any agreed declarations and so on.

Other

12.4 Option

12.4.1 In the event that the Transferee either:

(a) fails to commence the use of the whole or substantially the whole of the Property for the Permitted Use within (6) months of the date of this Transfer; or

(b) following commencement of the use of the whole or substantially the whole of the Property for the Permitted Use, the Property or any part thereof ceases to be used for the Permitted Use

the Transferor shall have and is hereby granted the option to require the Transferee to transfer the Property back to the Transferor (or as it shall direct) at the consideration referred to at panel 9 of this Transfer (and any overage due pursuant to an Option granted to the Transferee by the Transferor and dated 2012) free from any encumbrances other than those which may exist at the date of this Transfer but with vacant possession and the Transferee shall not be entitled to any compensation in connection with any works it shall have undertaken on the Property or otherwise. The Transferee shall ensure that the option in favour of the Transferor shall be registered correctly against the Transferee's title to the Property with priority over any charge the Transferee may give. Completion of the transfer back to the Transferor shall take place 20 working days after the Transferor shall have given notice to the Transferee in writing of the exercise of this option.

12.5 The covenants set out in section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 will not extend to costs arising from the Transferee's failure to make proper searches or to raise requisitions on title or on the results of the

Transferee's searches.

12.6 All matters recorded at the date of this transfer in registers open to public inspection are deemed to be within the actual knowledge of the Transferee for the purposes of section 6(2)(a) of the Law of Property (Miscellaneous Provisions) Act 1994, notwithstanding section 6(3) of that Act.

12.7 The Property will not, by virtue of this transfer, have any rights or easements or the benefit of any other matters over land retained by the Transferor other than those (if any) which are expressly mentioned in or granted by this transfer and section 62 of the Law of Property Act 1925 is qualified so as not to include any liberties, privileges, easements, rights or advantages over land retained by the Transferor except as expressly mentioned in or created by this transfer.

12.8 The Transferee covenants by way of indemnity only, on the Transferee's behalf and on behalf of the Transferee's successors in title, to observe and perform the charges, encumbrances, covenants and restrictions contained or referred to in the property and charges registers of title numbers CL158595 and CL95153 insofar as they are subsisting and are capable of taking effect and will keep the Transferor indemnified against all proceedings, costs, claims and expenses arising from any failure to do so.

12.9 In this Transfer the expression Transferor and Transferee shall each include their successors in title and the Transferor shall be entitled to assign the benefit of the option contained at clause 12.4 to such party and on such terms as it in its sole discretion chooses

The transferor must execute this transfer as a deed using the space opposite. If there is more than one transferor, all must execute. Forms of execution are given in Schedule 9 to the Land Registration Rules 2003. If the transfer contains transferee's covenants or declarations or contains an application by the transferee (such as for a restriction), it must also be executed by the transferee.

13 Execution

Executed as a deed by British International Helicopter Services Limited acting by a director and its secretary

Signature

Director

Signature

Secretary/Director

Executed as a deed by the Cornwall Council by its seal being affixed in the presence of:	Signature	Director
	Signature	Secretary

WARNING

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

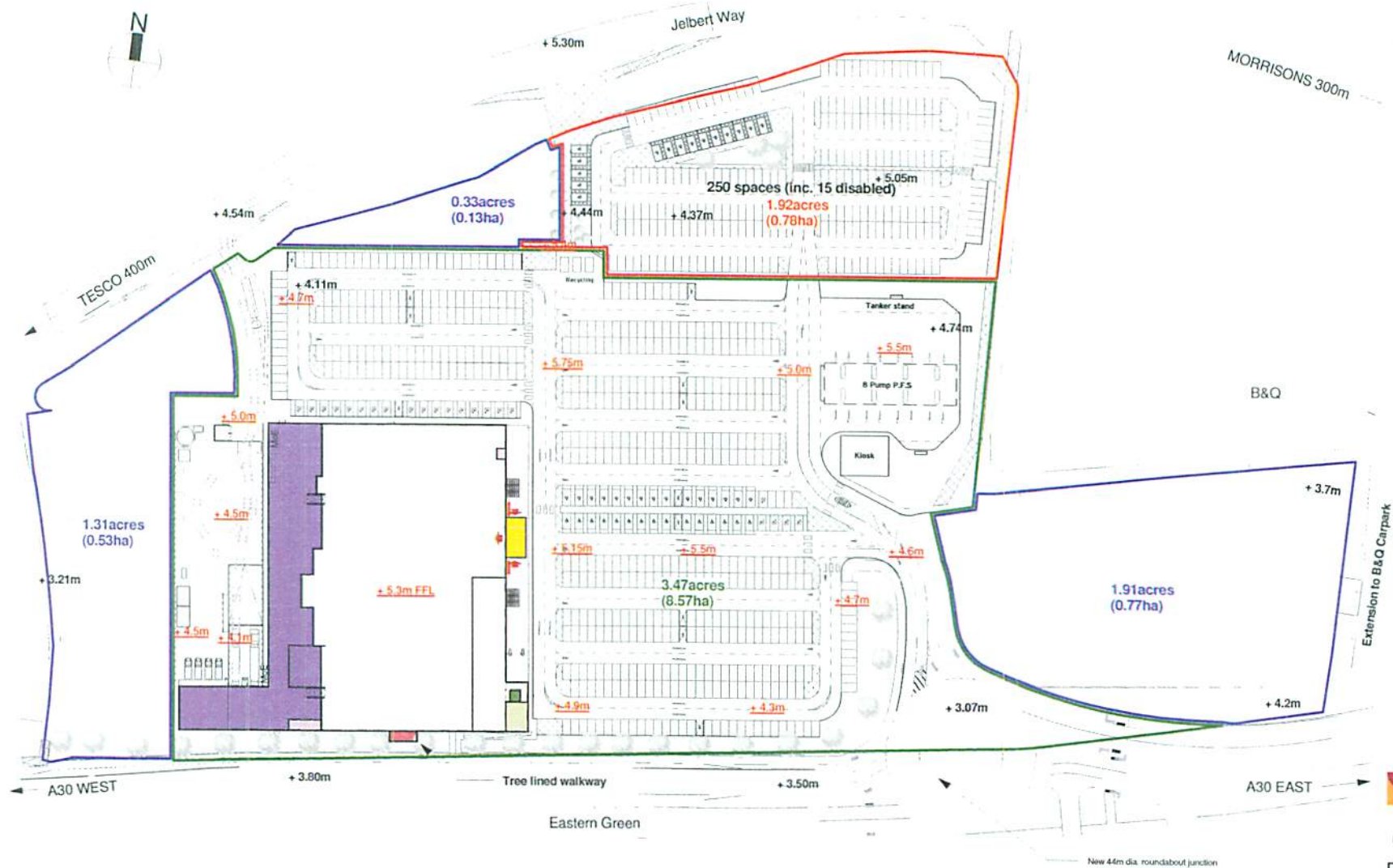
Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003.

Responsibility is not accepted for errors made by others in scaling from this drawing. All construction information should be taken from figured dimensions only.

FOR DISCUSSION ONLY

The contents of this drawing are for illustrative purposes only. Final proposals to be confirmed



- Key:**
- Proposed Park and Ride Site Boundary
1.92 acres (0.78ha)
 - Proposed SSL Site Boundary
8.57 acres (3.47ha)
 - Land in other ownership
3.55 acres (1.43ha)
 - +0.00 - Indicative Existing Levels
 - +0.00 - Indicative Proposed Levels

Proposed Site Plan
1 : 1250

Stride Treglown

Norbury Court, The Millfields, Plymouth PL1 3LL
T 01752202088 F 01752202089 www.stride-treglown.co.uk

For Information

DRAWINGS
Park and Ride Land

PROJECT
PENZANCE
Eastern Green

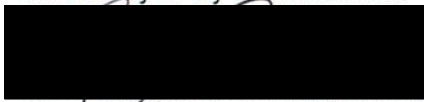

Sainsbury's
23 HOLBORN, LONDON, EC1N 2HT

DATE 07/03/12	DRAWN/CHECKED BH/AS	SCALE 1 : 1250	ORIGINAL A3
PROJECT 31224	DRAWING NUMBER SK40	REVISION	

EXECUTED AS A DEED by
**BRITISH INTERNATIONAL
HELICOPTER SERVICES LIMITED**
acting by a Director
and its Secretary or by two Directors

.....
Director 
.....
Director/Secretary

EXECUTED AS A DEED by
MPE PARTNERS LIMITED
acting by a Director and its
Secretary or by two Directors


.....
Director

.....
Director/Secretary

EXECUTED AS A DEED by
BANK OF IRELAND (UK) PLC
acting by a Director and its
Secretary or by two Directors


**The Common Seal of
The Bank of Ireland (UK) Plc was
Affixed hereto in the presence of:**

.....
Director
.....
Director/Secretary



btuk 295/12

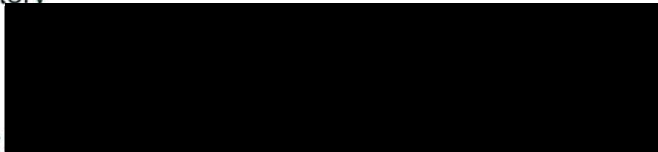
Authorised Signatory 3571
John Duggan

IN THE PRESENCE OF:-

.....
Signature of Witness
CATHERINE HANCOCK
..... Print name here
Bank of Ireland, Head Office, 40 Mespil Road, Dublin 4.

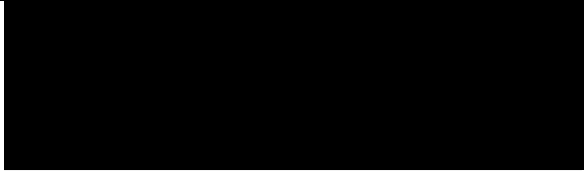
Executed as a Deed by affixing the common seal of
SAINSBURY'S SUPERMARKETS LTD
in the presence of:



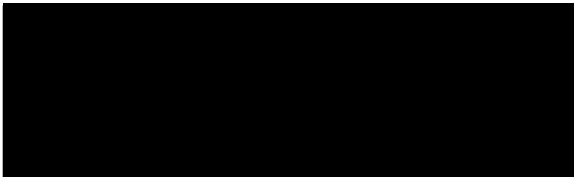
.....
Authorised Signatory



.....
Authorised Signatory



EXECUTED as a **DEED** by **THE CORNWALL COUNCIL** its seal having been affixed in the presence of:



)
)
)



Authorised Signatory

1005433

Print Name

Catherine Linehan
Principal Legal Officer
Legal Services
CORNWALL COUNCIL