



**Committee: OVERVIEW AND SCRUTINY COMMITTEE**

**Date: THURSDAY, 17 JANUARY 2008**

**Venue: LANCASTER TOWN HALL**

**Time: 6.00 P.M.**

Councillors are reminded that as Members of overview and scrutiny they may not be subjected to the Party Whip, which is prohibited under the Lancaster City Council Constitution.

## **A G E N D A**

- 1. Apologies for Absence.**
- 2. Declarations of Interest**
- 3. Land at Scotforth Road, Lancaster (Pages 1 - 33)**

Report of the Corporate Director (Finance & Performance)

This meeting has been convened in order to enable the Committee to consider the draft brief relating to land at Scotforth Road as requested in Overview and Scrutiny Committee Minute 23, resolution (2) dated 31<sup>st</sup> October 2007: "That Overview and Scrutiny Committee request that the draft tender brief for the Lawson's Bridge site appears before this committee before the Cabinet makes its decision."

## **ADMINISTRATIVE ARRANGEMENTS**

### **(i) Membership**

Councillors Stuart Langhorn (Chairman), Emily Heath (Vice-Chairman), Susan Bray, Ken Brown, Rebekah Gerrard, Mike Greenall, Roger Plumb, Robert Redfern and Jude Towers

### **(ii) Substitute Membership**

Councillors Shirley Burns, Tina Clifford, John Day, Andrew Kay, Bob Roe, Rob Smith, Keith Sowden, Morgwn Trolinger and Peter Williamson

### **(iii) Queries regarding this Agenda**

Please contact Liz Bateson, Democratic Services - telephone (01524) 582047 or email [ebateson@lancaster.gov.uk](mailto:ebateson@lancaster.gov.uk).

**(iv) Changes to Membership, substitutions or apologies**

Please contact Members' Secretary, telephone 582170, or alternatively email [memberservices@lancaster.gov.uk](mailto:memberservices@lancaster.gov.uk).

MARK CULLINAN,  
CHIEF EXECUTIVE,  
TOWN HALL,  
DALTON SQUARE,  
LANCASTER LA1 1PJ

Published on 9<sup>th</sup> January 2008

<b>CABINET</b>
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**Land at Scotforth Road, Lancaster**  
**22<sup>nd</sup> January 2008**

**Report of Corporate Director (Finance & Performance)**

<b>PURPOSE OF REPORT</b>			
To allow Cabinet to consider the tender documents prepared for the site and determine whether the site should be marketed with a view to its disposal.			
<b>Key Decision</b>	<input type="checkbox"/>	<b>Non-Key Decision</b>	<input checked="" type="checkbox"/> <b>Referral from Cabinet Member</b>
<b>Date Included in Forward Plan</b>	N/A		
This report is public.			

**RECOMMENDATIONS OF COUNCILLOR ARCHER**

- (1) That cabinet approve the Tender Brief and proposals for marketing of the site and receive a further report and presentations on bids submitted in due course.

**1.0 Introduction**

- 1.1 At their meeting in October 2007, Cabinet considered a report on the potential disposal of land of Scotforth Road, Lancaster (also known as land adjacent to Lawson's Bridge).

- 1.2 Cabinet resolved as follows:

"That the site at Scotforth (Lawson's Bridge) be marketed by way of a Development Agreement and that Officers be instructed to draw up a tender brief for approval by Cabinet prior to tenders for the land being invited."

- 1.3 Subsequently the matter was considered by the Overview and Scrutiny Committee following the call in procedure. The Committee resolved as follows:

"That Overview and Scrutiny Committee request that the draft tender brief for the Lawson's Bridge site appears before this committee before the Cabinet makes its decision."

- 1.4 A meeting of the Overview and Scrutiny Committee has been arranged prior to this Cabinet meeting and the views of that Committee will be reported to Cabinet members.

## **2.0 Proposal Details**

- 2.1 Attached to this report is the Tender documentation that has been prepared.
- 2.2 It is proposed that the land be offered for sale by way of a Development Agreement rather than a simple immediate disposal of the land, so that the Council can retain some control over the development process. This is in line with the Council's Corporate Property Strategy.
- 2.3 The tender sets out the way in which the Council would consider the information submitted by developers/occupiers by way of a scoring system which reflects the Council's requirements. It should be noted that as tender brief would allow for different forms of development, not all the elements of the scoring system would necessarily be appropriate
- 2.4 The documents also propose that once the bids have been shortlisted, developers/occupiers should present their proposals to Cabinet so that a final selection process can take place. If Cabinet approves a submitted proposal, then once a developer/occupier is contracted by signing the development agreement, a planning application will need to be submitted and as outlined in the documents, the outcome of such an application is critical.
- 2.5 For information, the dates currently given in the documents as closing dates for the submission of bids are estimated and may vary slightly according to marketing arrangements. It is unusual for a development agreement to be fully prepared without knowing the nature of the development. As a result, therefore, further information will need to be included in the documents that would relate to, for example, the completion date of any scheme should one be agreed and the staging of payments during the development process. Whilst a deposit would be received on the submission of tenders, a major payment would be made on the grant of planning permission with a final payment upon completion of the development. The details of amounts of such payments cannot really be determined until submissions are made to the Council. Other aspects of the documents may need to vary depending on the nature of the submissions to protect the Council's position.

## **3.0 Details of Consultation**

- 3.1 The proposals within this report will have been considered by the Overview and Scrutiny Committee prior to the meeting of this Cabinet.
- 3.2 The principles of disposal have also been considered both by Cabinet and the Overview and Scrutiny Committee which has resulted in the preparation of this report.

## **4.0 Options and Options Analysis (including risk assessment)**

- 4.1 Option 1 – to approve the tender documents and allow the marketing of the land to proceed. This option would enable the Council to receive a capital receipt for land that currently has no alternative, operational use for the Council. This would be in line with the initial resolution of Cabinet. There remains a major risk however that whilst the site could be marketed, the value would be dependent on the grant of planning

permission. The tender details recognise that the grant of planning permission for this site is by no means straight forward and there is therefore a risk that a major receipt may not be forthcoming. In terms of timing, whilst the Council is anticipating a receipt in 2008/09, then subject to an early resolution over the choice over a developer/occupier, it could be anticipated that a receipt may be expected in the final quarter of the 2008/09 financial year. Delays in this process would affect the Council's funding of the capital programme as indicated in the Financial Implications below.

- 4.2 Option 2 – not to approve the tender documents. This option would not offer the Council an opportunity to obtain a capital receipt for land that currently has no operational use. The Council's land would remain for small scale grazing in the immediate future.

### **5.0 Officer Preferred Option (and comments)**

- 5.1 Option 1 is the preferred option. This would allow the Council an opportunity to obtain a capital receipt for land that currently has no operational use, provided that a suitable planning permission is forthcoming.

#### **RELATIONSHIP TO POLICY FRAMEWORK**

There is no direct relationship to the policy framework. However, the Corporate Plan does place a priority on the capital receipts programme at KPI 1.4.

In addition the Corporate Property Strategy identifies the need to use the Council's assets to meet the Council's corporate priorities.

#### **CONCLUSION OF IMPACT ASSESSMENT**

**(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

The report indicates that development of the site could provide the opportunity to create a sustainable development reflected through design, use and associated transport issues.

#### **FINANCIAL IMPLICATIONS**

The capital receipts schedules show a receipt of £4m in 2008/09. The land in question is currently used for grazing with an annual income of £285.

The funding of the current Approved Capital Programme is dependent on major Capital Receipts of £6 million, of which almost £2 million is required in 2007-08. If this is not achieved, then a choice will have to be made between:

- (a) a substantial reduction in the size and scope of the Council-funded Programme, with a number of important schemes being either postponed, curtailed or cancelled, and/or
- (b) funding additional amounts from Prudential Borrowing, requiring an estimated increase of £1.80, or 1.13%, in the basic amount of Council Tax, for every £1m borrowed, and/or
- (c) identifying other sources of funding, i.e. from the revenue budget.

Both (b) and (c) above would, in effect, require significant savings to be made in the services and activities funded from the revenue budget, if capping is to be avoided.

The disposal of the land at Scotforth Road, and the estimated receipt to be generated has the potential to largely secure the funding of the Council's planned programme of investment over the next five years. While there are other possible receipts, there are none that currently seem to have the same potential. A report elsewhere on the agenda will provide a full update on the General Fund capital position, however.

**SECTION 151 OFFICER'S COMMENTS**

The Section 151 Officer has been consulted and has no further comments to add.

**LEGAL IMPLICATIONS**

If option 1 is approved, Legal Services will assist in the preparation of the tender documentation & provide all other supporting agreements.

**MONITORING OFFICER'S COMMENTS**

The Monitoring Officer has been consulted and has no further comments.

**BACKGROUND PAPERS**

Cabinet and Overview & Scrutiny Committee agendas and Minutes.

**Contact Officer:** Graham Cox  
**Telephone:** 01524 582504  
**E-mail:** gcox@lancaster.gov.uk  
**Ref:** N/A

DEVELOPMENT OPPORTUNITY  
LAND AT  
SCOTFORTH ROAD,  
LANCASTER  
  
FOR SALE BY WAY OF  
DEVELOPMENT AGREEMENT

Picture

CLOSING DATE: 12 noon, Monday 31<sup>st</sup> March 2008

## **Description**

Lancaster City Council is the freehold owner of the plot of land at:

### **Scotforth Road, Lancaster**

The land comprises 2.108 hectares (5.209 acres) of land, shown edged red on the attached plan, situated to the east of the A6 Scotforth Road, Lancaster, south of Rays Drive. The land is mainly used for grazing and is located on the southern fringe of the urban area. Immediately to the west of the site, is the West Coast main line London – Glasgow rail line.

## **Proposals**

The City Council is undertaking a review of its property and, whilst it has no operational requirement for the land, is aware of demand in this vicinity for development. The land has the potential for development subject to obtaining the necessary planning permission.

## **Planning**

The site is currently allocated on white land with no specific use allocated in the Local Plan. The site had previously been proposed as a major extension of Lancaster to encompass residential expansion and a range of ancillary uses, but this was rejected at public inquiry stage, following which no alternative use has been put forward for the site. The Council ownership is directly adjacent to established residential development to the north and east, and is bordered by the railway line to the west and the A6 to the east.

The development of this site would currently be a departure from the Local Plan and would require a number of detailed tests to be passed before any support could be given in planning terms for any form of development. The City Council is currently preparing its Local Development Framework and proposals for alternative uses for the site could practically be considered in the Land Allocations Development Plan Document which is in the course of preparation. .

The current Local Plan and the core strategy of the new Local Development Framework both reflect national and regional policy in relation to development. In essence, development can be considered if:

- This can accommodate demonstrable need
- The proposal is well related to public transport
- The proposal is related to existing (or proposed) residential areas
- The site can pass a sequential test to demonstrate that it is the most suitable site in the urban area for the use proposed.

These tests are designed to encourage sustainable development.



Whilst there would be a general expectation that the future of the site should be considered through the Local Development Framework potential purchasers are able to consider the option of handling the planning process through the departure procedures. General planning advice has been given to interested parties which makes it clear that the development of this site would be a departure and would involve complex considerations placing the onus on applicants to prove that there was a) a clearly identified need in this location, and b) that it would be sustainable and the only alternative after assessing other sites in the area.

### **Tendering/offer process**

The offer for the site should confirm that the operators/developers will, after obtaining the necessary planning permissions, undertake development that is in accordance with the planning permission granted. The City Council will grant the developer a licence to undertake the development on the site, with the freehold transfer being undertaken upon satisfactory completion of the development - see Development Agreement below.

### **The closing date for offers to be made is 31<sup>st</sup> March 2008.**

Please ensure that you complete the Form of Tender and return this to Lancaster Town Hall in an appropriate unmarked envelope with the provided tender sticker, before 12 noon on Monday 31<sup>st</sup> March, 2008, together with

- Supporting information you wish to submit with your offer. This should ideally be an outline of the proposals and timetable for development and be in a form that can be viewed by the Councillors at a presentation.
- A deposit cheque for £10,000 (Ten Thousand Pounds)

When all offers are received, shortlisted developers/occupiers will be asked to make a presentation to cabinet Members prior to the Council determining which offer, if any, will be accepted. The Council's cabinet will then make the final decision on which developer will be chosen by using the matrix that is attached to this document. Submitted documents therefore need to address all the elements identified on the matrix as a minimum.

Upon being confirmed as the chosen developer, the developer and the Council will ensure that the details of the development are included in a binding agreement. The successful bidder will also be expected to promptly submit a planning application for the scheme.

### **Development Agreement**

The chosen developer will enter into a development agreement with the City Council that will identify the rights and duties of the individual parties and to ensure early and proper development of the site. It is expected that the developers offer will be based on the eventual acquisition by the developer of the freehold of the site that is developed.

The Development Agreement shall be signed within a maximum of eight weeks of confirmation by the City Council that the agreed terms are acceptable. (This date can be sooner than the eight week period but will be dependant on the Purchaser

providing details of the planned programme of development of the land as soon as possible).

This Agreement will be drafted by Lancaster City Council and provide a strict timescale for design, approvals, construction and development, details of which should be sent to the City Council as part of the bidding process. Once drafted minor amendments will be considered but no major alterations. The Development Agreement will also contain a licence for the Purchaser to enter the site and undertake the development and once such development is satisfactorily completed in accordance with the Development Agreement then the City Council will convey the freehold interest of the site to the Purchaser upon payment of the remaining percentage of the purchase price (less payments made in the interim), if applicable.

In the event of the timescales within the Development Agreement not being complied with, the City Council may at its discretion, either extend the period or withdraw from the intended transaction and offer the site to another party without refunding the deposit/interim payments paid on signing the Agreement or any other costs incurred by the developer.

A copy of a specimen Development Agreement is enclosed.

### **Services**

It is the responsibility of the tenderers to satisfy themselves as to the exact location of the various services to ensure that they are adequate and to make the appropriate arrangements with the various undertakers.

### **Ground Conditions**

Potential purchasers should make their own enquiries as to the suitability of the land for their purpose. Permission will be given, subject to the necessary indemnities, for trial holes or pits to be dug, but when offers are made, prospective purchasers should make their own assumptions. **Offers conditional on future ground surveys, etc., will not be accepted.**

### **Council's costs**

The successful tenderer will be required to bear the Council's surveyor's fees, 1% of the purchase price (Minimum £1,000).

The successful tenderer will also be required to meet the City Council's legal cost of 1% of the purchase price (Minimum £1,000).

These should be borne in mind when submitting any offer.

### **Further Information**

Further information can be obtained from:

Property Services,  
Lancaster City Council,  
Town Hall,  
LANCASTER.  
LA1 1PJ

FAO. Graham Cox (01524 582504)

ALL DESCRIPTIONS, DIMENSIONS, REFERENCES TO CONDITIONS AND NECESSARY PERMISSIONS FOR USE AND OCCUPATION AND OTHER DETAILS ARE GIVEN IN GOOD FAITH AND ARE BELIEVED TO BE CORRECT BUT ANY TENDERER SHOULD NOT RELY ON THEM AS STATEMENTS OF FACT BUT MUST SATISFY THEMSELVES BY INSPECTION OR OTHERWISE AS TO THE CORRECTIVENESS OF EACH OF THEM.

## LANCASTER CITY COUNCIL

Property Services, Town Hall, Dalton Square  
LANCASTER LA1 1PJ

### CONDITIONS OF TENDER

#### 1. Seller's Solicitors

1.1 The Seller's Solicitor is Head of Legal and Human Resources, Lancaster City Council, Palatine Hall, Dalton Square, Lancaster LA1 1PW (ref: Alan R Humphreys)

#### 2. Seller's Agents

2.1 The Seller's Agent is Head of Property Services, Lancaster City Council, Town Hall, Dalton Square, Lancaster LA1 1PJ (ref: Graham Cox)

2.2 Enquiries relating to the tender should be addressed to reference Graham Cox

#### 3. Definitions and interpretation

In these Conditions of Tender and in the annexed Special Conditions:

3.1 'the Buyer' means the Tenderer whose Tender is accepted in the manner referred to in condition 9.1 (if any)

3.2 'the Buyer's Solicitors' means the person or firm named in the Tender Form submitted by the Buyer (if any) as the person or firm to whom the evidence of title should be sent in the event of the Tender being successful

3.3 'the Completion Date' means the date on which completion takes place

3.4 'Letter of Acceptance' means the letter annexed to the Tender Form dispatched to the Buyer (if any) by the Seller's Solicitors or Agents notifying him of the Seller's acceptance of his Tender

3.5 'the Notification Date' means the date on or before which the Seller's Solicitors or Agents will despatch to the Buyer (if any) a Letter of Acceptance

3.6 'the Property' means the freehold land (more particularly described in the annexed Special Conditions) briefly known as 2.108 hectares of land at Scotforth Road, Lancaster.

3.7 'the Seller' means LANCASTER CITY COUNCIL or the present legal and absolute beneficial owner of the Property

3.8 'the Special Conditions' means the form of special conditions annexed

3.9 'Tender' means an offer to purchase the option in the Property made in accordance with these conditions of tender and the Special Conditions

3.10 'the Tender Date' means **Monday 31<sup>st</sup> March, 2008** (i.e. the date before 12 noon on which any Tender must be received at the Seller's Solicitors or Agents offices

- 3.11 'Tender Form' means the tender form at the end of the Special Conditions
- 3.12 'Tenderer' means a person who submits a Tender for the Property
- 3.13 words importing one gender shall be construed as importing any other gender
- 3.14 words importing the singular shall be construed as importing the plural and vice versa
- 3.15 words importing persons shall be construed as importing a corporate body and/or a partnership and vice versa
- 3.16 save where the context otherwise requires all obligations given or undertaken by more than one person in the same capacity are given or undertaken by them jointly and severally
- 3.17 the clause headings do not form part of these conditions of tender and shall not be taken into account in their construction or interpretation
- 3.18 unless otherwise stated any reference to a numbered condition in these conditions of tender means the condition in these conditions of tender which is so numbered and any reference to a numbered clause or a paragraph or a schedule in the Special Conditions means a clause or paragraph or schedule in the Special Conditions which is so numbered
- 3.19 in the case of any inconsistency between these conditions of tender and the Special Conditions the Special Conditions shall prevail

#### **4. Tender Form**

Each Tenderer shall send his Tender on the Tender Form completing all the required details and signed the Tender Form and in particular each Tenderer shall supply:

- 4.1 if an individual his full name and address and if the Tender is jointly made with another or others the full name and addresses of all persons making the Tender
- 4.2 if the Tender is made by a company corporation partnership or trust its full name company number and its registered office or (if none) the address of its principal place of business or of the trustees of the trust in the United Kingdom being the address for the company corporation or partnership or trust to which all letters facsimiles or notices required for the purposes of the Tender may be sent or delivered
- 4.3 if the Tender is made by a company corporation partnership or trust the name and capacity of the authorised signatory signing the Tender on its behalf
- 4.4 if the Tender is made by an agent:
  - 4.4.1 the full name and address of the principal as well as the agent and
  - 4.4.2 a document signed by the principal authorising the agent to submit the Tender on behalf of the principal
- 4.5 the amount of the Tender (in words and figures in the appropriate place in the Tender Form) which must be for a fixed sum in sterling and shall be exclusive of any VAT which may be properly chargeable and which shall be paid by the Buyer in addition to the fixed sum of the Tender and
- 4. the name and address of the Tenderer's Solicitors

#### **5. Payment of deposit**

- 5.1.1 Each Tender shall be accompanied by a solicitor's client's account cheque or a banker's draft (all in sterling and made payable to Lancaster City Council) for £10,000.
- 5.1.2 If the Tenderer submits with his Tender a form of payment which does not comply with this condition he shall be deemed to authorise the Seller's Solicitors to present the form of payment prior to the Notification Date
- 5.1.3 If the cheque or draft is not met upon presentation (whether or not re-presented) the Seller may disregard the Tender or if he accepts the Tender enforce payment of the cheque or draft by suing on it or otherwise

**6. Tender to be contained in sealed envelope**

- 6.1 The completed Tender form together with the all other relevant detail shall be placed intact together with the remittance specified in condition 5.1 in the sealed enveloped marked "TENDER For Land at Scotforth Road, Lancaster" to the Chief Executive, Lancaster City Council, Town Hall, Lancaster, LA1 1PJ **before 12 noon on the Tender Date time in this respect being of the essence** Tenders arriving after this time will not be considered.
- 6.2 If sent by post the envelope should be sent by first class pre-paid registered post or recorded delivered service
- 6.3 The envelope must be properly sealed, not bear any name or mark indicating the identity of the sender and have the orange coloured Tender Sticker on the front.

**7. Seller's consideration of tenders**

- 7.1 The Seller does not undertake to accept the highest, or any tender, and only unqualified tenders of a specific amount will be entertained
- 7.2 The Seller may disregard any Tender marked 'subject to contract' or qualified in any similar way
- 7.3 The Seller may disregard any Tender from undisclosed principals or any Tender in which the amount is indefinite or calculable only by reference to other Tenders or which otherwise fails to comply with these conditions of tender in any respect
- 7.4 The Seller may disregard any outstanding requirements of or deficiency in the requirements of these conditions of tender without waiving the right to demand subsequent compliance with them
- 7.5 In the event of failure on the part of the successful Tenderer to complete with such time limit the following provisions shall apply:
- (a) The Seller may forthwith avoid the contract between itself and the successful Tenderer by notice in writing.
  - (b) The Seller may forfeit and retain any deposit paid.

**8. Opening of tender offers**

- 8.1 The Seller may authorise the Seller's Solicitors or Agents to open any of the envelopes provided and return to them prior to 12 noon on the Tender Date to ensure (so far as possible) that all these conditions of Tender have been complied with
- 8.2 In that event the Seller shall irrevocably instruct the Seller's Solicitors or Agents not to disclose the identity of the Tenderer or the price tendered to the Seller or the Seller's Solicitors or Agents or to any third party prior to 12 noon on the Tender Date

**9. Notice of acceptance**

- 9.1 The Buyer (if any) or his agent will be notified of the acceptance of his Tender by Letter of Acceptance sent to him by first class recorded delivery post at the address for reply (for himself or his agent) inserted in the Tender Form
- 9.2 Such Letter of Acceptance annexed to a certified copy of the Tender Form shall evidence the contract and the date of the contract shall be the date of dispatch of the Letter of Acceptance and the signature on the Tender Form of the Seller or the Seller's Solicitors or Agents on his behalf shall constitute their signature to the whole of the contract and the signature on the Tender Form of the Buyer or his authorised signatory or his agent on his behalf shall constitute his or their signature to the whole of the contract

- 9.3 Any cheque or banker's draft accompanying the successful Tender or the proceeds of it will then be deemed to be released to the Seller as the deposit payable by the Buyer on the date of the contract on account of the purchase price of the Property PROVIDED THAT the cheque or banker's draft is met on presentation
- 9.4 All cheques or banker's drafts of unsuccessful Tenderers or the proceeds of them will be dispatched to the unsuccessful Tenderers on or before the second working day following the Notification Date
- 9.5 No interest will be paid on any cheque or banker's draft which may have been presented or the proceeds of it

**10. Undertaking**

- 10.1 In consideration of the promise by the Seller contained in condition 10.2 each person who submits a Tender shall be deemed to accept these conditions and to have undertaken that his Tender is made in accordance with them and that his Tender will remain unvaried and open for acceptance until and will not be withdrawn before the second Working Day following the Notification Date
- 10.2 In consideration of the undertaking referred to in condition 10.1 the Seller promises to pay 5p to each Tender (if demanded)

**11. Compliance with conditions of tender**

- 11.1 Acceptance of the successful Tender shall not waive (unless the Seller expressly in writing elects to do so) any outstanding requirements of or failure to comply with the requirements of these conditions of tender by the Buyer and the Buyer shall remain liable to comply with them
- 11.2 In submitting a tender the following assumptions shall apply:
- (a) That the Tenderer has previously inspected the property and is satisfied that it can be reasonably reconciled with any plan annexed or referred to as either delineating or identifying the Property.
  - (b)
    - (i) The Property is sold subject to all defects whether latent or otherwise and the Tenderer accepts the Property in the physical state it is now in.
    - (ii) No warranty express or implied is given by the Seller as to the state and condition of the Property.
    - (iii) The Tenderer having been given the opportunity to inspect the Property and have such surveys carried out as he desires shall be deemed to purchase with full knowledge of all or any defects (if any) in or affecting the Property and of its general state and condition.
  - (c) That the Tenderer has made all appropriate searches other than the search referred to in sub condition (c) above or has waived the opportunity to do so.
  - (d) That the Tenderer is aware of these Conditions of Tender and Sale and the consequence of submitting a tender which is successful.
  - (e) That the Tenderer has had the opportunity of ascertaining for what purposes the Property may be used and is deemed to purchase the Property with full knowledge of the permitted use thereof and all other

(if any) special restrictions or directions, orders or liability to enforcement, notices under any enactment and regulations relating to Town and Country Planning and if requested by the City Council to do so the Transfer or Conveyance to the Tenderer shall expressly exempt the City Council from all liability arising from the fact that the property cannot be used for any reason whatsoever or for any particular purpose.

- 11.3 The description of the Property and the attached plan are believed to give an accurate description of the Property to be sold, but no further warranty is given by the Seller. Any intending Tenderer should satisfy himself by inspection or further enquiries before submitting his tender.
- 11.4 In addition to the sum offered by the Tenderer, the Tenderer shall pay on completion of the purchase the professional fees of the City Council incurred in respect of the Legal and Surveyors costs, such costs being 1% each of the purchase price (Minimum fee of £1000 for each)
- 11.5 Tenderers are reminded that it is their responsibility to ensure that the tender envelope provided herewith is returned duly sealed and containing this Tender Form to the name and address given in condition 6.1 so as to be received by the time and date herein specified and are further reminded that consideration will NOT be given to tenders which:
- **have not been completed correctly**
  - **are not received by the said time and date**
  - **are expressed to be subject to variations of these Conditions of Sale**
  - **seek to impose additional conditions.**

## SPECIAL CONDITIONS OF SALE

- 1 **Definitions and interpretation**
- 2 **Incorporation of Conditions of Tender**
- 3 **Deposit**
- 4 **Completion**
- 5 **Title Guarantee**
- 6 **Possession**
- 7 **Title**
- 8 **Encumbrances**
- 9 **Matters affecting the Property**
- 10 **Disclaimer**
- 11 **Incorporation of conditions of sale and documents**
- 12 **Merger on completion**
- 13 **VAT provisions**
- 14 **Insolvency of Buyer**
- 15 **Jurisdiction and governing law**
- 16 **Contracts (Rights of Third Parties) Act 1999**

### SCHEDULES

- 1 **The Property**
- 2 **Amendments to the Standard Commercial Property Conditions (2<sup>nd</sup> Edition)**
- 3 **Transfer**



## 1 Definitions and interpretation

In these Conditions:

- 1.1 'the Buyer's Solicitors' means the person or firm named in the Tender Form submitted by the Buyer as the person or firm to whom the epitome and evidence of title should be sent in the event of the Tender being successful
- 1.2 'Completion' means actual completion of the sale and purchase agreed in the contract for sale created pursuant to the annexed Conditions of Tender
- 1.3 'the Completion Date' **to be agreed**
- 1.4 'the Completion Money' means the Purchase Price (or any outstanding balance of it) as adjusted by all sums due between the parties at Completion
- 1.5 'these Conditions' means these special conditions of sale as varied by any subsequent documentation
- 1.6 'the Contract Rate' means the Law Society's interest rate from time to time in force
- 1.7 'the Deposit' means the sum payable under condition 5.1 of the annexed Conditions of Tender
- 1.8 'the Standard Conditions' means the Standard Commercial Property Conditions (2<sup>nd</sup> Edition)
- 1.9 'the Plan' means the plan attached to the annexed particulars of sale
- 1.10 'the Property' has the meaning given in condition 3.6 of the annexed Conditions of Tender and described in Part 1 of the First Schedule
- 1.11 'the Purchase Price' means the purchase price specified by the buyer in his Tender form and also specified in the Letter of Acceptance
- 1.12 'the Seller's Solicitors' means the person or firm so defined in condition 1.1 of the annexed Conditions of Tender
- 1.13 'the Transfer' means the transfer of the Property
- 1.14 'VAT' means an amount equal to the value added tax as charged in accordance with VATA or any equivalent or substituted tax
- 1.15 'VATA' means the Value Added Tax Act 1994 or any equivalent tax Act
- 1.16 'VATA invoice' means an invoice complying with the provisions of regulations 13 and 19 of the VAT Regulations 1995
- 1.17 where the context so admits the expressions 'the Seller' and 'the Buyer' includes their respective personal representatives and 'the Buyer' shall include any permitted successors in title of the Buyer
- 1.18 words importing one gender shall be construed as importing any other gender
- 1.19 words importing the singular shall be construed as importing the plural and vice versa
- 1.20 words importing persons shall be construed as importing a corporate body and/or a partnership and vice versa
- 1.21 where any party comprises more than one person the obligations and liabilities of that party under these Conditions shall be joint and several obligations and liabilities of those persons
- 1.22 the condition headings do not form part of these Conditions and shall not be taken into account in their construction or interpretation
- 1.23 any reference to a clause or a paragraph or a schedule is to one in these Conditions so numbered
- 1.24 any reference to a colour or letter is to one on the Plan
- 1.25 in the absence of any contrary provision any reference to a statute includes any statutory modification or re-enactment of it and any and every order

instrument regulation direction or plan made or issued under the statute or deriving validity from it

- 1.26 words defined in the annexed Conditions of Tender shall have the same meaning in these Conditions

**2 Incorporation of Conditions of Tender**

- 2.1 Conditions 1 2 and 3 of the annexed Conditions of Tender are incorporated in these Conditions as though repeated at length in these Conditions
- 2.2 If there shall be any conflict between the Conditions of Tender and these Conditions these Conditions shall prevail

**3 Deposit**

- 3.1 The Deposit shall be held by the Seller's Solicitors as stakeholders
- 3.2 The Law of Property Act 1925 Section 49(2) shall not have effect

**4 Completion**

- 4.1 Completion of the sale and purchase and payment of the Completion Money shall take place on the Completion Date on or before 2.00 p.m. at the offices of the Seller's Solicitors or where they may reasonably direct
- 4.2 If the Completion Money is received after 2.00 p.m. on the Completion Date or on a day which is not a working day Completion shall be deemed for the purposes of the Standard Conditions to have taken place on the next working day after receipt

**5 Title guarantee (where the form of Transfer is annexed)**

The Property is sold with the title guarantee set out in the transfers referred to in Schedule 3 and no amendments shall be made to them

**6 Vacant possession**

The Property is sold with vacant possession on completion

**7 Title**

- 7.1 The title to the Property is registered at H M Land Registry and in relation to such title the Seller shall provide to the Buyer official copies of the items referred to in rules 134(1)(a) and (b) and 135(1)(a) of the Land Registration Rules 2003 except charges or incumbrances registered or protected on the register which are to be discharged or overridden at or before completion
- 7.2 Title having been deduced prior to the date of the contract for sale the Buyer accepts the Seller's title to the Property and shall be deemed to purchase with full knowledge of the title in all respects and shall not raise any requisitions or make any objection in relation to the title

**8 Encumbrances (where the form of Transfer is annexed)**

- 8.1 The Transfer shall be in the form of the annexed draft
- 8.2 The Property is sold subject to and (where appropriate) with the benefit of
- 8.2.1 the matters contained or referred to in the Property proprietorship and charges registers of the title to the Property except any subsisting financial charges
- 8.2.2 The Buyer or the Buyer's Solicitors having been supplied with copies of the matters (if any) referred to in condition 8.2 prior to the date of the contract for sale the Buyer shall be deemed to purchase with full notice and knowledge of them and shall not raise any requisition or make any objection in relation to them

- 8.2.3 The Transfer shall be engrossed In duplicate by the Seller's Solicitors and both engrossments shall be executed by the Buyer before the Completion Date

**9 Matters affecting the Property**

The Property is sold subject to the following matters:

- 9.1 all local land charges whether registered or not before the date of the contract for sale and all matters capable of registration as local land charges whether or not actually so registered
- 9.2 all notices served and orders, demands, proposals or requirements made by any local, public or other competent authority whether before or after the date of the contract for sale
- 9.3 all actual or proposed charges, notices, orders, restrictions, agreements, conditions, contraventions or other matters arising under any statute
- 9.4 all easements, quasi-easements, rights, exceptions or other similar matters whether including rights of way drainage water watercourses light rights of adjoining owners affecting the Property and liability to repair or covenants to repair roads pavements paths ways passages sewers drains gutters fences and other like matters whether or not apparent on inspection or disclosed in any of the documents referred to in these Conditions and without any obligation on the Seller to provide evidence of the creation of or to define or apportion any such liability
- 9.5 matters discoverable by inspection of the Property before the date of the contract for sale
- 9.6 matters relating to the Property about which the Seller does not know
- 9.7 matters disclosed or which would be disclosed by any searches or as a result of enquiries (formal or informal and made in person in writing or orally) made by or for the Buyer or which a prudent buyer ought to make; and
- 9.8 unregistered interests which override first registration or registered dispositions listed in the Land Registration Act 2002 Schedule 1 and 3 (as amended) as appropriate

**10. Disclaimer**

- 10.1 The Buyer admits that:
- 10.1.1 it has inspected the Property and purchases it with full knowledge of its actual state and condition and shall take the Property as it stands
- 10.1.2 it enters into the contract for sale solely as a result of its own inspection and on the basis of the terms of these Conditions and not in reliance upon any advertisement statement representation or warranty either written or oral or implied made by or on behalf of the Seller except as stated in condition 10.2
- 10.1.3 no warranty statement or representation has been made or given to the Buyer that the Property can be used or developed in any particular way or for any particular purpose and the Seller shall not be liable to the Buyer if the Property cannot for any reason whatsoever be so used or developed
- 10.2 The Buyer may rely on factual representations and warranties made or given by the Seller's Solicitors to the Buyer's Solicitors written pre-contract enquiries but only in so far as such statements are not capable of independent verification by appropriate searches enquiries inspection survey of the Property or by inspection of the documents and information supplied to the Buyer's Solicitors
- 10.3 The annexed Conditions of Tender the Tender From the Letter of Acceptance and these Conditions together contain the entire agreement between the parties and incorporates all the terms agreed between them for the purposes of the Law of Property (Miscellaneous Provisions) Act 1989 Section 2 and

there are no other terms or provisions agreed prior to the date of the contract for sale which have been incorporated into one or more of those documents

**11. Incorporation of conditions of sale and documents**

- 11.1 The Standard Conditions as amended by the Second Schedule shall apply to these Conditions and are incorporated in it in so far as they are applicable to a sale by private treaty and are not varied by or inconsistent with the terms of these Conditions
- 11.2 If there is any conflict between the Standard Conditions (as amended) and the terms of these Conditions the terms of these Conditions prevail
- 11.3 All express agreements made or undertakings given by one party to the other are incorporated in these Conditions

**12. Merger on completion**

The provision of these Conditions shall not merge on completion of the Transfer as far as they remain to be performed

**13. VAT provisions**

Standard Condition Part 1, condition 1.4 (VAT exempt supply) is included in this Agreement

- 13.2 All VAT payable by the Buyer shall be paid at the same time as the payment on which it is chargeable
- 13.3 The Seller shall provide the Buyer with a receipted VAT invoice for any VAT paid by the Buyer under the contract for sale

**14. Insolvency of Buyer**

- 14.1 If the Buyer:
- 14.2 enters into voluntary liquidation (other than for the purpose of reconstruction or amalgamation not involving a realisation of assets) or has a winding-up order made against it by the court or has a receiver appointed over all or any part of its assets or an administration order is made pursuant to the Insolvency Act 1986; or
- 14.3 becomes insolvent or enters into any composition with its or his creditors or enters into a voluntary arrangement (within the meaning of the Insolvency Act 1986 Sections 1 or 253) or distress sequestration or execution is levied on its goods  
then in any such case the Seller may rescind the contract for sale by notice to the Buyer
- 14.4 Condition 9.2 of the Standard Conditions shall apply save that in this instance the Seller shall not be obliged to pay any interest which has accrued on the deposit

**15 Jurisdiction and governing law**

Where there is any conflict between the General Conditions and these Conditions of Tender and Sale, the Conditions of Tender and Sale shall prevail but the General Conditions shall be amended as follows:

**FIRST SCHEDULE**  
**The Property**  
Description of the Property

All that freehold property containing 2.108 hectares or thereabouts situate at and known as land at Scotforth Road, Lancaster.

**SECOND SCHEDULE**  
**Amendments to the Standard Commercial Property Conditions (2<sup>nd</sup> Edition)**

1. In Standard Condition 1.1.3(b) (ready able and willing to complete) the words 'or if reasonable evidence is produced that the property would be released from all such mortgages' shall be added immediately after the words 'free of all mortgages'
2. Condition 2.3 shall not apply
3. Condition 3.2.1 shall be read as if the words "unless the Seller is building or converting it" did not appear therein

**SIGNED:** ..... **(Seller)**

**SIGNED:** ..... **(Buyer)**

**LANCASTER CITY COUNCIL**

**Property Services, Town Hall, Dalton Square, LANCASTER, LA1 1PJ**

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**FORM OF TENDER**

**FOR**

- **2.108 hectares OF LAND AT SCOTFORTH ROAD, LANCASTER**

1. I/We  
 .....  
 of

.....  
 the undersigned, hereby offer to purchase from the owner, namely Lancaster City Council, the property described in the Conditions of Tender and Sale attached hereto and supplied to me/us by Property Services of the City Council upon payment by me/us of the following sum on the Terms and Conditions referred to in the said Conditions of Tender and in the event of this offer being accepted, I/We agree to pay the sum and complete the transfer of the property in accordance with the said Conditions of Tender and Sale.

2. I/We offer the following sum for the property as shown on the plan attached to the Conditions of Tender.

3. Sum Offered:

Figures:  
 .....

Words:  
 .....

I/We understand that the City Council is not bound to accept the highest or any offer.

I/We agree that in addition to the above I/We will pay on completion of the purchase, the professional fees of the City Council incurred in respect of the Legal and Surveying costs, such costs being 1% of the purchase price as to the legal costs and 1% of the purchase price in respect of the Surveyors fees (Minimum £1,000 each).

4. I/We enclose a cheque drawn on a Solicitors client account/banker's draft for £10,000 as a deposit and in part payment of the purchase price.

5. I/We agree that if the offer is accepted in accordance with the attached Conditions of Tender and Sale. I/We will pay the balance of the purchase price and complete the purchase in accordance with the said Conditions and Tender and Sale.

6. Signed: .....  
Date: .....

7. For and on behalf of:  
Name: .....  
Address: .....  
.....  
.....

8. Address of Registered Office, if a Limited Company:  
.....  
.....  
.....

9. Name and Address of Solicitors:  
.....  
.....  
.....

10. Name and Address of Bankers:  
.....  
.....  
.....

**NOTES:**

1. Offers in which any attempt is made to qualify the amount being offered will not be considered.
2. **This form of offer, duly completed, to be returned in the envelope provided to the Chief Executive of the Lancaster City Council, Town Hall, Lancaster, LA1 1PJ, not later than 12.00 hours on 31<sup>st</sup> of March, 2008.**
3. Please attach any supplementary information you wish to submit with your offer.

**This Section to be completed by the City Council only**

The City Council hereby accepts your tender

Signed for and on behalf  
of the City Council .....

Date: .....



DATED

2008

**LANCASTER CITY COUNCIL**

- and -

**DEVELOPMENT AGREEMENT**  
in connection with  
**LAND AT SCOTFORTH ROAD, LANCASTER**

S Taylor,  
Head Of Legal & Human  
Resources  
Town Hall,  
LANCASTER. LA1 1PJ

Ref: CD

**THIS AGREEMENT** is made the \_\_\_\_\_ day of \_\_\_\_\_ 2008

**BETWEEN**

**LANCASTER CITY COUNCIL** of Town Hall Dalton Square Lancaster LA1 1PJ (“the Council”)

and \*\* whose registered office is at \*\* (“the Developer”)

**NOW IT IS AGREED** as follows:

**1 DEFINITIONS AND INTERPRETATION**

IN this Agreement:

- 1.1 “the Site “ means Land at Scotforth Road, Lancaster
- 1.2 “the Approved Plans” means the layout plans elevations sections and other drawings and specifications describing the Developer’s proposals for the development of the Site
- 1.3 “the Development” means the works described in the Approved Plans including any preparation of the Site
- 1.4 “the Building” means any unit(s) to be erected on the Site in accordance with the Approved Plans
- 1.5 “the Development Programme” means the timetable for the completion of the various stages of the Development approved of or specified in writing by the Council with such variations as may be approved in writing by the Council
- 1.6 the “date of possession” means the date of the execution of this Agreement
- 1.7 “the completion date” means the \_\_\_\_\_ day of \_\_\_\_\_ 200X
- 1.8 “the Head of Property Services” means the Head of Property Services of the Council for the time being or such other officer of the Council as the Council may appoint from time to time
- 1.9 words importing one gender shall be construed as importing any other gender
- 1.10 the purchase price is £\*\*
- 1.11 the perpetuity period means eighty years from the date of possession
- 1.12 where any party comprises more than one person the obligations and liabilities of that party under this Agreement shall be joint and several obligations and liabilities of those persons
- 1.13 the clause headings do not form part of this Agreement and shall not be taken into account in its construction or interpretation

**2 LICENCE**

2.1 **THE** Council grants to the Developer from the date of possession licence and authority for the Developer to enter onto the Site for the purpose of the carrying out of this Agreement but for no other purpose whatsoever and

2.2 to make (in so far as the Council can give such authority) such connections as may be necessary with the sewers drains pipes wires and cables now laid or during the perpetuity period to be laid in the roads adjoining or neighbouring the Site so as to enable the Building to be erected upon the Site to be served but for no other purpose

**3 OBLIGATIONS OF THE DEVELOPER**

3.1 **The** Developer undertakes and agrees with the Council:

3.1.1 to enter upon the Site as licensee only for the purpose of carrying out the Development and the Developer acknowledges that as between itself and the Council the Council is entitled to possession of the Site subject to the rights of the Developer under this Agreement

3.1.2 to take the Site in its existing condition and to make no claim or demand against the Council in respect of any matter or thing arising out of or in connection with the state and condition of the Site or any part of or in connection with the state and condition of the Site or any part of it or which may be encountered by the Developer on the Site however such difficulty may arise

3.1.3 to carry out the Development at their exclusive expense and in accordance with the Approved Plans in a good and workmanlike manner to the reasonable satisfaction of the Council diligently continuously and with all practicable speed (and in any event in accordance with the Development Programme) so that the Development shall be completed by the Completion Date

3.1.4 in carrying out the Development to use sound materials and to take down and remove any work or materials which shall not be in accordance with statute or building regulations or the Approved Plans or which shall not otherwise have been carried out in accordance with this Agreement within 14 days of service by the Council of notice to do so

3.1.5 from the date of entry upon the Site and during the continuance of this Agreement to pay all rates taxes claims assessments and other out goings (if any) now or after the date of this

Agreement chargeable against an owner or occupier of the Site or any part of parts of it remaining unsold during the period of this Agreement

- 3.1.6 not to assign or part with its licence or interest under this Agreement or any part of it except to a bank as security for a loan to enable the Development to be carried out
- 3.1.7 during the Development of the Site to take all reasonable care to avoid damage to adjoining or neighbouring roads and footpaths including their verges and any landscaped areas associated with them
- 3.1.8 not knowingly to do or permit or suffer to be done upon the Site or any part of it during the Development anything which may be or become a nuisance or annoyance or cause damage to the Council or the tenants or occupiers of neighbouring premises except so far as may be reasonable and necessary in the development of the Site as envisaged by the Agreement
- 3.1.9 not to permit any oil or grease or any deleterious objectionable dangerous poisonous or explosive matter or substance to be discharged into the ditches watercourses culverts drains or sewers on or near the Site and to take all reasonable measures for ensuring that any effluent so discharged shall not be corrosive or otherwise harmful to the ditches watercourses culverts drains or sewers or cause obstruction or deposit in them
- 3.1.10 not to excavate for sale or dispose of any minerals earth clay gravel chalk or sand from the Site or permit or suffer any of those materials to be removed except so far as is approved by the Head of Property Services or necessary for the Development
- 3.1.11 not to use or permit or suffer to be used the Site or any part of it for any purposes other than that of performing this Agreement without the previous written consent of the Council
- 3.1.12 to observe and be responsible for ensuring that its employees and sub-contractors and suppliers observe the reasonable directions from time to time given by the Head of Property Services for gaining access to the Site
- 3.1.13 not to erect or build or permit to be erected or built on the Site any temporary structures or advertising signs save such as may be authorised in writing by the Head of Property Services

- 3.1.14 until the completion of the Development to use its best endeavours to maintain the Site in a neat and tidy condition and to prevent so far as may be reasonably practicable any matters or things which may be unnecessarily unsightly or offensive visually or otherwise
- 3.1.15 not to deposit on the Site or make up or manufacture on it any building or other materials or goods except those required for the Development and as soon as the Development is completed to remove immediately from the Site all surplus building and other materials and rubbish
- 3.1.16 in carrying out the Development to do all acts and things required by and to perform the building work for the Development in conformity in all respects with the provisions of all statutes applicable and any orders or regulations made under them (including planning permissions) and the bye-laws or regulations of any statutory undertakers public utilities and other such bodies and to pay all proper fees charges fines penalties and other payments whatsoever which during the progress of the Development may become payable or be demanded by such undertakers utilities or other such bodies in respect of the Development or anything done under the licence and authority granted by this Agreement
- 3.1.17 to indemnify and keep indemnified the Council from and against all claims demands and liabilities however arising in respect of the materials and workmanship used by the Developer in the Development or any part of it
- 3.1.18 to indemnify the Council (notwithstanding any supervision or approval of the Council or any person acting on behalf of the Council) against any liability loss claim or proceeding in respect of any injury or damage whatsoever to any person or to any property real or personal in so far as such injury or damage arises out of or in the course of or by reason of the negligent execution of the Development and to insure against any such liability in an insurance office approved by the Council (such approval not to be unreasonably withheld) and in a sum to be approved by the Council and to pay all premiums in respect of such insurance
- 3.1.19 at all times during the Development to insure the Development in a sum sufficient to cover the cost of reinstating the same completely in the event of total destruction together with professional fees and other expenses incidental to the reinstatement against loss or

damage by fire and any other risk usually insured against in respect of a development of this nature and to pay all premiums and other monies necessary for this purpose

3.1.20 not more than once in each year to produce to the 'Head of Property Services' on demand copies of the policies of insurance maintained under the provisions contained in this Agreement and all receipts as evidence of payment of the current premiums and if so required to have recorded on the policy or policies the Council's interest in it or them as the owner of the Site

#### **4. AGREEMENT FOR SALE OF THE SITE**

4.1 **THE** Council agrees with the Developer as follows:-

4.1.1 on the completion date to convey its freehold interest in the Site to the Developer in the Form of Transfer provided by the Council in consideration of the Developer paying to the Council the balance of the Purchase Price due if applicable (amount of the Purchase Price to be agreed)

4.1.2 the Council sells with full title guarantee and the tenure of the land is freehold and the title is contained within the indenture dated \_\_\_\_\_ made between \_\_\_\_\_ and \_\_\_\_\_

4.1.3 in so far as they relate to the Site and are still subsisting the Site is sold subject to any matter or thing registered or capable of registration in the Local Land Charges Registers and all rights of way drainage and other rights easements and privileges which may affect the Site or any part thereof without any obligation of the Council to define the same

4.1.4 the Standard Commercial Property (second edition) shall apply to this Agreement so far as they are not varied by it or inconsistent with it

4.1.5 the completion of this sale shall take place at the offices of the Council's Head of Legal and Human Resources at the Town Hall Dalton Square Lancaster

4.1.6 the Developer shall pay the Council's reasonable legal costs and expenses in connection with the Transfer of the Site

#### **5 FURTHER OBLIGATIONS OF THE DEVELOPER**

5.1 **THE** Developer further undertakes and agrees with the Council:

5.1.1 to pay to the Council also on the signing of this Agreement its reasonable legal costs and surveyors fees in connection with the preparation of this Agreement

5.1.2 to pay to the Council on the completion date the sum of £\*\* (being the payment of the remaining percentage of the purchase price, if applicable.)

5.1.3 not to dispose or attempt to dispose of any part of the Site other than in accordance with the provisions of this Agreement

## **6 AGREEMENT AND DECLARATION**

It is agreed and declared that:-

6.1 THE Council's Head of Property Services and other authorised persons may enter upon the Site to view the state and progress of the Development and to inspect and test the materials and workmanship and for any other reasonable purpose including the exercise of the rights given to the Council by this Agreement upon default of the Developer and may enter upon the Site for the removal of any works which are in contravention of this Agreement and the cost of any works carried out by the Council under this clause shall be recoverable from the Developer

6.2 if the Developer:

6.2.1 fails to commence or proceed with the Development with proper diligence or in accordance with the Development Programme within three months of the date of this Agreement or

6.2.2 fail to complete the Development in accordance with the timetable or any agreed extension thereof or

6.2.3 fail to observe and perform in material respects the other stipulations and conditions on its part contained in this Agreement or

6.2.4 fail to remedy the breach of any of the stipulations and conditions on its part contained in this Agreement within one month after receipt of written notice requiring it to remedy the breach or within such reasonable time in excess of one month as may be specified by the Head of Property Services or

6.2.5 enter into liquidation whether compulsory or voluntary (except for the purpose of reconstruction amalgamation or other similar purpose not involving a realisation of assets) or

6.2.6 suffer its goods to be taken in execution

the Council may terminate this Agreement and eject the Developer from the Site and the Development works and erections and fixtures (except the Developer's plant and equipment) on the Site shall be held by the Council with power to dispose of them

PROVIDED ALWAYS that the Council shall not be entitled to exercise any of the rights conferred upon it by this Clause without giving 14 days prior written notice of its intention so to do to any Mortgagee of the Developer of which the Council shall have prior notice and if such Mortgagee shall within one month of receipt of such prior notice indicate to the Council its willingness to complete the Development to assign the benefit of this Agreement or shall supply to the Council:-

- (a) such details as the Council may reasonably require as to the revisions to the Development Programme and the completion of the Development and (in case of a proposed Assignment) details of the proposed Assignee
- (b) a duly perfected covenant in such form as the Council may reasonably require by the Mortgagee or Assignee to carry out and complete the Development and so long as such Mortgagee or Assignee has an interest in this Agreement to observe and perform the covenants and obligations on the part of the Developer hereunder

Upon fulfilment of the conditions hereinbefore referred to this Agreement shall continue in full force and effect but shall thenceforth be construed as though the name of the Mortgagee or the Assignee (as the case may be) were substituted for the name of the Developer herein and the timescales are amended as agreed

6.3 in the event of termination of this Agreement pursuant to clause 6.2 hereof the Developer shall assign or cause to be assigned to the Council the copyright in the Approved Plans or other plans forming part of this Agreement and the design of the Development in so far as may be necessary to enable the Development to be completed

6.4 any relic article or thing whatsoever of antiquity rarity or value which may be found or discovered by the Developer on or upon the Site or any buildings on it shall belong to the Council and be delivered up by the Developer to the Council and immediately any such relic article or thing is found or discovered the Developer shall give notice to the Council and afford all reasonable facilities to the Council to remove the same and the Council shall grant to the



Developer such an extension of the time for the completion of the Development as is reasonable following the Developer's compliance with these provisions

6.5 the Council shall not be under any liability whatsoever in respect of any defect in the design of the Development by reason of having approved the Approved Plans or otherwise

6.6 any information given to the Developer by the Council in this Agreement or otherwise as to the position of sewers wires cables pipes and other conduits within or over the Site or any information given as to levels or soil conditions is to the best of the Council's knowledge correct but is given on the understanding that the Council and its servants and agents shall not be liable for any inaccuracies and the Developer is expected to carry out their own surveys and site investigations

6.7 any notice under the terms of this Agreement or by statute required to be served by the parties to this Agreement shall be sufficiently served by the Council by being left or sent by post to the Developer at its registered office for the time being and by the Developer by being left or sent by post to the Council at the Town Hall Lancaster

6.8 nothing contained or implied in this Agreement shall prejudice or affect the rights power duties and obligations of the Council in the exercise of its functions as a Local Authority and the rights power duties and obligations of the council under all public or private statutes bye-laws orders and regulations may be as fully and effectually exercised in relation to the Site and the Development as if the Council were not the owner of the Site and this Agreement had not been executed by it

6.9 if the Developer is delayed in completing or proceeding with the Development solely by reason of any outbreak of war or civil insurrection or by fire tempest frost or other sever weather or by other unavoidable cause or accident or by any strike or lock-out in the building trade or any kindred trade or by delay or failure of delivery of supplies or materials or by unreasonable delay of the Council in complying with its obligations under this Agreement or by any other authority or body needing to give approval to the Development or provide essential services or by reason of an extension variation or alteration made to the Development (which has been approved by the Council) the Council shall allow such further time for the completion

of the Development as is in all the circumstances reasonable and shall notify the Developer in writing of the extended time

6.10 in the event of any dispute or difference arising between the parties as to the construction of this Agreement or as to the rights duties or obligations of the parties or as to any other matter in any way arising out of or in connection with the subject matter of this Agreement the dispute shall be referred to the arbitration or decision of an independent arbitrator to be appointed by the President for the time being of the Law Society (this Agreement being deemed to be a submission to arbitration within the meaning of the Arbitration Acts 1950 to 1979 or any statutory modification or re-enactment for the time being in force) and it is agreed and declared that the decision of the arbitrator shall be final and binding

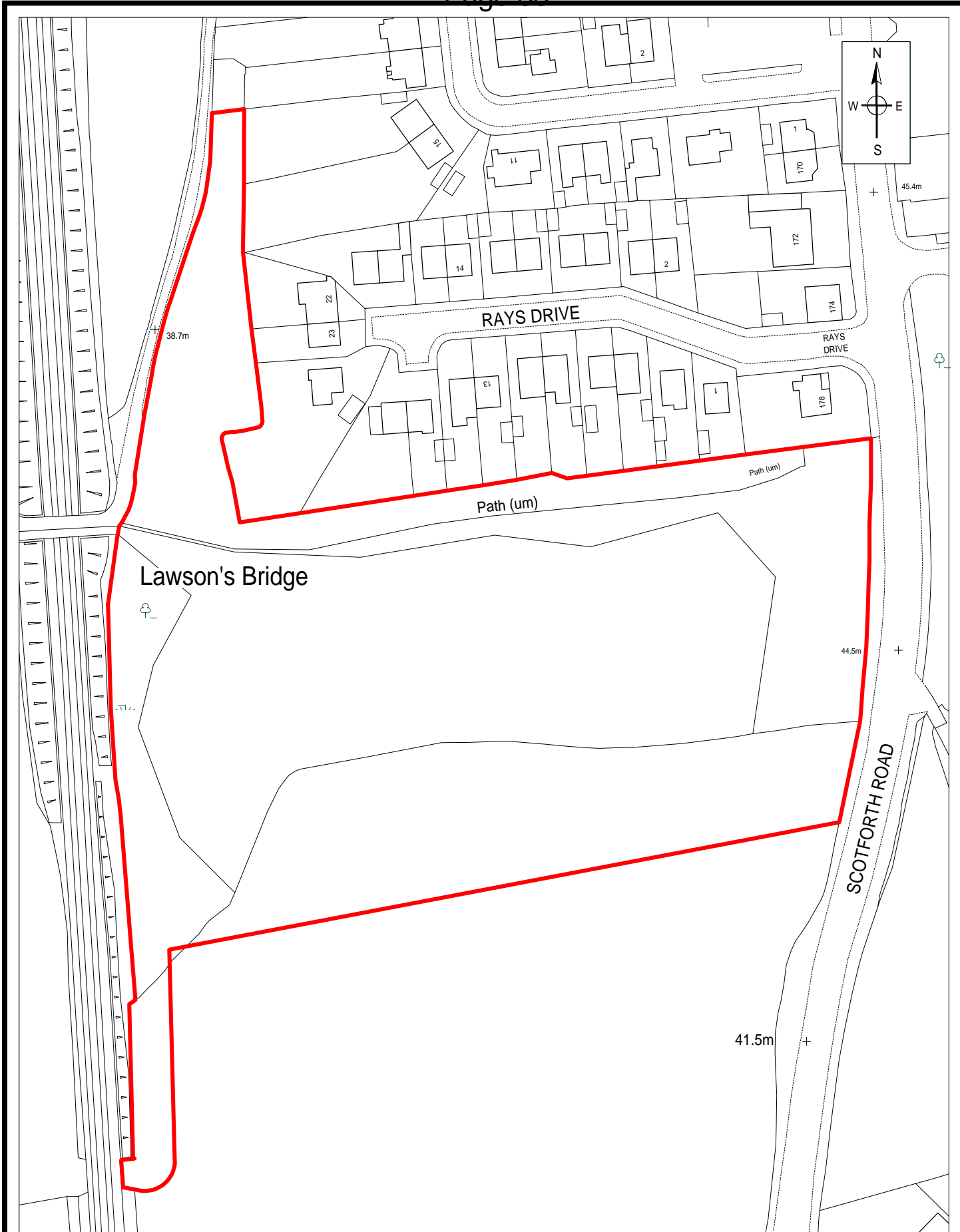
6.11 any costs payable by reason of the provisions of clause 6.10 shall be borne initially in equal proportions by the parties and then as may be adjusted by the award pursuant to its provisions

**IN WITNESS** whereof this Agreement has been executed as a Deed the day and year first before written

**THE COMMON SEAL OF THE** )  
**DEVELOPER** was hereunto )  
affixed in the presence of:- )

**THE COMMON SEAL OF THE** )  
**COUNCIL** was affixed )  
in the presence of:- )

Corporate Director (Finance & Performance)



Property Services  
Town Hall  
Lancaster LA1 1PJ  
Telephone: (01524) 582967

**Title:** Lawson's Bridge - Council Land Ownership.

**Scale :** 1:1250

**Date :** 08/01/2008

**LANCASTER**  
CITY COUNCIL

*Promoting City, Coast & Countryside*

Page 34  
SCORE SHEET

PROPOSED DEVELOPMENT, Scotforth Road, Lancaster  
SUBMISSION BY SHORTLISTED DEVELOPER

DEVELOPER:

DATE:

COMMUNITY/ECONOMIC REGENERATION & SUSTAINABILITY			
CRITERIA	DESCRIPTION	SCORE (out of 4)	REASONS
RE1	Size/orientation of development (out of 5)		
RE2	Retail Offer		
RE3	Links to surrounding areas		
RE4	Accessibility and Public Transport Links (out of 5)		
RE5	Impact Assessment		
RE6	Treatment of Key Frontages		
RE7	Height and Massing		
RE8	Parking and Servicing		
RE9	Quality of Public Space		
RE10	Location/accessibility of any Public/Community facilities		
RE11	Sustainability of development/building process (out of 5)		
RE12	Sustainability of operation (out of 5)		
<b>TOTAL (out of 52):</b>		<b>0</b>	

BIDDERS PREVIOUS EXPERIENCE & CAPABILITY			
CRITERIA	DESCRIPTION	SCORE (out of 5)	REASONS
PE1	Consultation Procedure		
PE2	Longer-term Commitment		
PE3	Financial Capability		
PE4	Previous Experience		
<b>TOTAL (out of 20):</b>		<b>0</b>	

PARTNERSHIP & DELIVERY			
CRITERIA	DESCRIPTION	SCORE (out of 2)	REASONS
P&D1	Future Management/Operational Proposals		
P&D2	Partnership with Council		
P&D4	Transparency of Approach		
P&D5	Local Hiring Policy		
<b>TOTAL (out of 8):</b>		<b>0</b>	

FINANCIAL ARRANGEMENTS			
CRITERIA	DESCRIPTION	SCORE (out of 4)	REASONS
FIN1	Clarity of Information		
FIN2	Financial Structure		
FIN3	Previous Experience of proposed type of financial model		
FIN4	Deliverability of proposed financial model		
FIN5	Benefit to Council		
<b>TOTAL (out of 20):</b>		<b>0</b>	

<b>TOTAL SCORE (out of 100):</b>	<b>0</b>
----------------------------------	----------

<b>X FACTORS:</b>	