

Date: 23 OCTOBER 2008

- (1) SQUARE OCTOBER 1 LIMITED (the Freehold Owner)
- (2) PREMIER INN LIMITED (the Leasehold Owner)
- (3) HERTFORDSHIRE COUNTY COUNCIL (the County Council)

UNILATERAL UNDERTAKING

pursuant to

Section 106 Town and Country Planning Act 1990 (as amended) relating to;

Land at Stanborough Road Welwyn Garden City Hertfordshire AL8 6DQ

 **Blake
Lapthorn**

Seacourt Tower
West Way
Oxford
OX2 0FB

Reference: HGL 126249/41

THIS UNILATERAL UNDERTAKING is made by deed on the 23 day of ~~OCTOBER~~ 2008

- (1) **SQUARE OCTOBER 1 LIMITED** (Company Registration Number 05253238) whose registered office is at Whitbread Court, Houghton Hall Business Park, Porz Avenue, Dunstable, Bedfordshire LU5 5XE ("the Freehold Owner") (which expression shall include the Freehold Owner's successors in title) and
- (2) **PREMIER INN LIMITED** (Company Registration Number 06190411) whose registered office is at Whitbread Court, Houghton Hall Business Park, Porz Avenue, Dunstable, Bedfordshire LU5 5XE ("the Leasehold Owner") (which expression shall include the Leasehold Owner's successors in title)

In favour of

- (3) **HERTFORDSHIRE COUNTY COUNCIL** of County Hall, Pegs Lane, Hertford, SG13 8DE ("the County Council")

WHEREAS

- (1) The County Council is a local planning authority for the purposes of the 1990 Act for the area within which the Site is situate and as such is entitled to enforce the planning obligations hereinafter recited
- (2) The County Council is also the highway authority
- (3) The Freehold Owner is the freehold owner of the whole of the Site
- (4) The Leasehold Owner is the registered proprietor of the Lease
- (5) Whitbread Group Plc has submitted the Planning Application to the Council
- (6) This Deed is entered into to make provision for regulating the Development and securing the matters hereinafter referred to which are required in order to enable the Development to go ahead

NOW THIS DEED WITNESSES AS FOLLOWS:

OPERATIVE PART

1 DEFINITIONS

1.1 In this Deed the following expressions shall have the following meanings:-

"the 1990 Act" means the Town and Country Planning Act 1990
(as amended)

"Commencement Date "	means the date of which any material operation (as defined in Section 56(4) of the 1990 Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and the expressions "Commence" "Commences" "Commencement" and "Commenced" shall be construed accordingly
"Development"	means the development of the Site with erection of three storey extension to accommodate thirty bedrooms as set out in the Planning Application
"Director of Environment"	means the County Council's Director of Environment for the time being and his officers and agents
"Lease"	means a lease of the whole of the Site made between the Freehold Owner (1) and Geoffrey Thomas Savage (2) dated 4 October 2007 for a term of 999 years from 4 October 2007 which lease is registered at the Land Registry under title number HD474698
"Owners"	means the Freehold Owner and Leasehold Owner
"Plan"	means the plan annexed to this Deed
"Planning Application"	means the application for full planning permission registered 6 November 2008 and bearing the Council's reference number N6/2008/2104/FP
"Planning Permission"	means the permission to be granted by way of approval of the Planning Application whether granted by variation alteration substitution addition or replacement PROVIDED THAT if any form of development within the Site which individually or in combination with any other permission for development would lead to levels of development exceeding those set out in the Planning Application that development shall be subject to additional planning obligations

"Site"		means the property situate at Stanborough Road, Welwyn Garden City, Hertfordshire SL8 6DQ registered at the Land Registry with Title Absolute under Title Numbers HD368993 and HD474698
"SPONS Index"		means the index linked by reference to the price adjustment formula for construction contracts in the monthly bulletin of indices published by Her Majesty's Stationary Office as collaged into a single index known as the SPONS Construction Civil Engineering Cost Index
"Sustainable Contribution"	Transport	means the sum of Eleven Thousand Two Hundred and Fifty pounds (£11,250.00) (indexed linked as hereinafter provided)
"Working Day"		means between the hours of 10.00am and 4.00pm on any day other than a Saturday or a Sunday or a Public Holiday

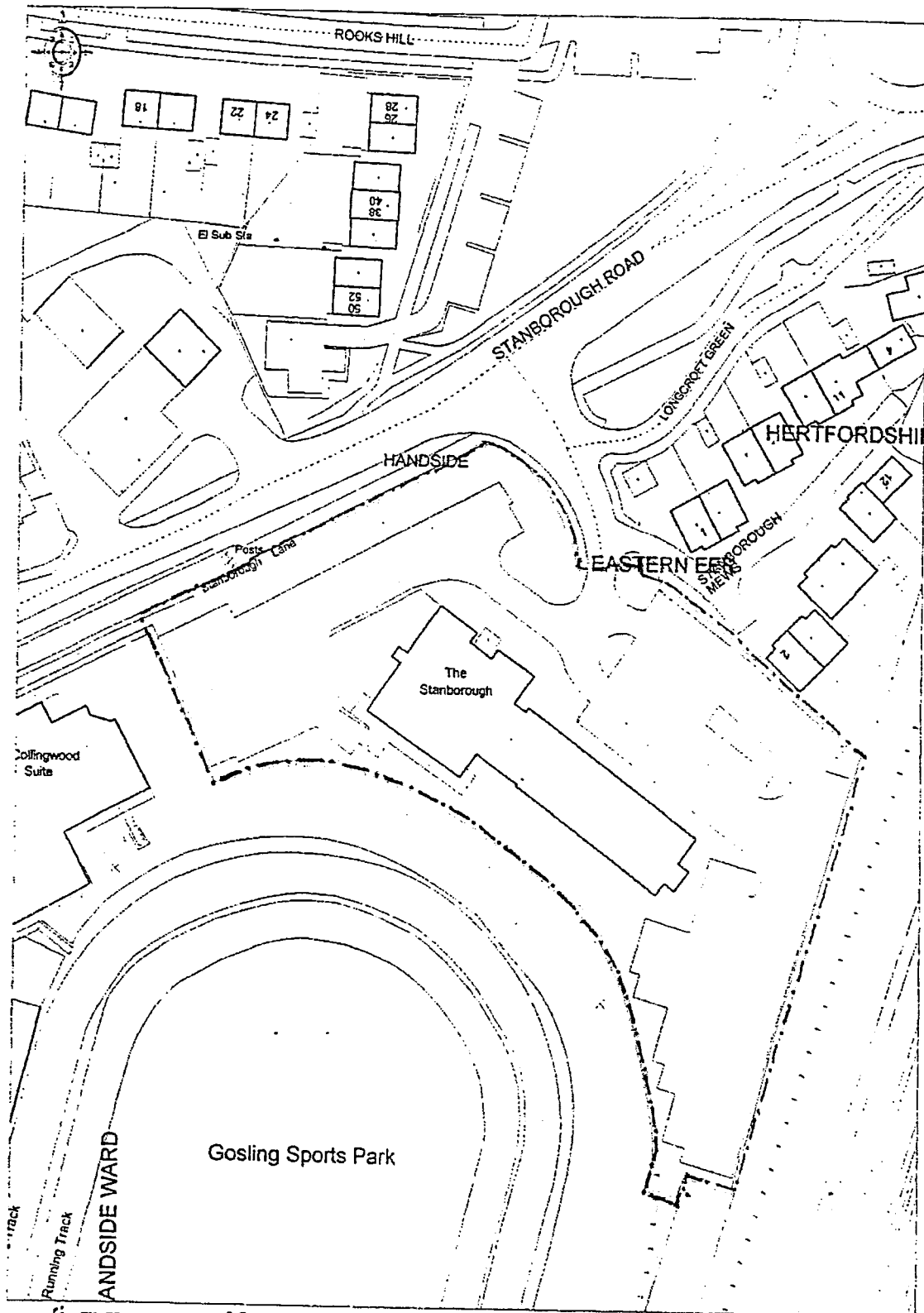
1.2 In this Deed :-

- 1.2.1 the clause headings do not affect its interpretation;
- 1.2.2 words of the masculine gender shall incorporate the feminine and neuter genders and words of the singular shall include the plural and vice versa;
- 1.2.3 the reference to any statute or section of a statute includes any modification extension or re-enactment of the Act for the time being in force and shall include all instruments orders plans regulations permissions and directions for the time being made issued or given under that Act for deriving validity from it;
- 1.2.4 any reference to a clause, a paragraph or a schedule is unless the context otherwise requires a reference to a clause, a paragraph or a schedule of this Deed and any reference to a sub clause is a reference to a sub clause of the clause in which the reference appears;
- 1.2.5 references to the Site include any part of it;
- 1.2.6 where two or more people form a party to this Deed the obligations they undertake may be enforced against them all jointly or against each of them individually;
- 1.2.7 references to any party to this Deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the County Council the successors to their functions;
- 1.2.8 any covenants by the Owners not to do any act of thing includes a covenant not to permit or allow the doing of that act or thing and words denoting an obligation on the Owners to do any act matter or thing include an obligation to procure that it be done;

0.5.7.0001

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Premier Travel Inn Extension
The Stanborough, Stanborough Road,
Welwyn Garden City



OS Ordnance Survey

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Cliff Walsingham Co
Bourne House, Cores End Road, Bourne End, Bucks SL8 5AR
Phone 01628 532244 Fax 01628 532255

2 EFFECT OF THIS DEED

- 2.1 This Deed is entered into pursuant to Section 106 of the 1990 Act. To the extent that they will within the terms of Section 106 of the 1990 Act the obligations contained in this Deed are planning obligations for the purposes of Section 106 of the 1990 Act and are enforceable by the County Council
- 2.2 To the extent that any of the obligations contained in this Deed are not planning obligations within the meaning of the 1990 Act, they are entered into pursuant to the powers contained in Section 111 Local Government Act 1972, Section 2 Local Government Act 2000 and all other enabling powers;
- 2.3 The Owners enter into the obligations for itself and its successors in title with the County Council to the intent that the obligations hereunder shall be enforceable not only against the Owners but also against the successors in title of the Owners and any person claiming through or under the Owners an interest or estate in the Site or any part thereof

3 EFFECTIVE DATE

- 3.1 The covenants in this Unilateral Undertaking shall come into effect on the date of this Unilateral Undertaking

4 OWNERS' COVENANTS

- 4.1 The Owners covenant with the County Council :-

- (i) to observe and perform the covenants restrictions stipulations and obligations contained in Schedule 1 hereto
- (ii) to give the County Council no less than five (5) Working Days notice of the Commencement Date such notice to be given prior to the Commencement Date in writing using the proforma set out in Schedule 2 hereto
- (iii) upon completion of this Deed pay to the County Council their costs in connection with the preparation negotiation and completion of this Deed

- 4.2 The Owners further covenant that:-

- (i) they are the freehold and leasehold owner of the Site
- (ii) the Site is free from all encumbrances material to this Unilateral Undertaking and that
- (iii) no other party has an interest in the Site

5 INDEXATION

- 5.1 The Sustainable Transport Contribution shall be index-linked to movements in the SPONS Index from September 2006 to the date on which the Sustainable Transport Contribution is paid

- 5.2 Where any sum to be paid to the County Council under the terms of this Deed is required to be indexed then an interim payment shall initially be made based on the latest available forecast figure (or figures as the case may be) at the date of payment and any payment or payments by way of adjustment shall be made within ten (10) Working Days of written demand by the County Council or the payer of the interim payment (as the case may be) once the relevant indices have been finalised

6 MISCELLANEOUS

- 6.1 This Deed shall be registered as a local land charge

- 6.2 Notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999 nothing in this Deed confers or purports to confer any right to enforce any of the terms and provisions herein on any person who is not a party hereto or a successor in title or a statutory successor to a party hereto

- 6.3 Any notice to the parties hereto under this Deed shall be deemed to be sufficiently served if delivered personally or by recorded delivery service on a Working Day to the following officials/persons at the respective addresses hereinafter specified:

In respect of the Owners:

Addressed to either the Freehold Owner or Leasehold owner at: Whitbread Court, Houghton Hall Business Park, Porz Avenue, Dunstable, Bedfordshire LU5 5XE

In respect of the County Council:

The County Secretary, Hertfordshire, County Council, County Hall, Pegs Lane, Hertford, Hertfordshire, SG13 8DE (ref: DU DU 1294)

- 6.4 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality and unenforceability shall not affect the validity or enforceability of the remaining provision of the Deed

- 6.5 Nothing in this Deed shall be construed as imposing a contractual obligation upon Welwyn and Hatfield District Council as to the issue of the Planning Permission or as restricting the exercise by Welwyn and Hatfield Council or the County Council of any powers exercisable by them respectively under the 1990 Act or under any other Act or authority

- 6.6 No waiver whether expressed or implied by the County Council of any breach or default by the Owners in performing observing any of the obligations contained herein shall constitute a continuing waiver and no such waiver shall prevent the County Council from enforcing the relevant obligations or from acting upon any subsequent breach or default
- 6.7 This Deed shall cease to have any effect (insofar only as it has not been complied with) if the Planning Permission shall be quashed revoked or otherwise withdrawn or if the Commencement Date has not been initiated in accordance with section 56 of the 1990 Act before the expiration of the period specified in the Planning Permission
- 6.8 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission other than the Planning Permission granted for the Development (whether granted on appeal or not) after the date of this Deed
- 6.9 Where the approval, consent, expression of satisfaction, agreement, confirmation or certification of the County Council or any officer of the County Council is required for any purposes under or in connection with the terms of this Deed such approval, consent, expression of satisfaction, agreement, confirmation, or certification shall not be unreasonably withheld or delayed
- 6.10 Without prejudice to Welwyn and Hatfield District Council's and the County Council's statutory rights the Owners hereby grant to Welwyn and Hatfield District Council and/or the County Council or any person duly authorised or instructed by it an irrevocable licence at all reasonable times to enter the such parts of the Site to inspect any of the works to be carried out for the purposes of the Development and any materials to be used in carrying out those works for any purpose directly or indirectly connected with or contemplated by this Deed.

7 VALUE ADDED TAX

- 7.1 All consideration given in accordance with the terms of this Deed shall be exclusive of any valued added tax properly payable

8 JURISDICTION

- 8.1 This Deed is governed by and interpreted in accordance with the law of England and Wales

IN WITNESS whereof the Owners have executed this Deed but the same remains undelivered until the day and year first before written.

Schedule 1

The Owners' Covenants Restrictions Stipulations and Obligations

Sustainable Transport Contribution

- 1.1 To pay the Sustainable Transport Contribution to the County Council prior to the Commencement Date as a contribution to be applied by the County Council at its sole discretion towards the costs of the County Council of the design construction and implementation of sustainable transport measures which measures shall include (but not limited to) highway improvement works traffic management schemes traffic studies improvements to public transport or such other measures as will encourage users of the Development to travel to and from the Development by means of transport other than the private car which the Director of Environment in his absolute discretion determines will contribute to the improvement of highway conditions on parts of the highway network affected by traffic associated with the Development

- 1.2 Not to Commence the Development until such time as the Sustainable Transport Contribution shall have been paid to the County Council in accordance with paragraph 1.1 of this Schedule

Schedule 2

Proforma

Event Notification and Payment

Pursuant to Section 106 Agreement/Unilateral Undertaking

DATED.....

MADE BETWEEN.....

PLANNING PERMISSION REFERENCE.....

HCC DU REFERENCE.....

SITE ADDRESS.....

.....

.....

.....

SITE OWNER DETAILS

Name

Contact Name.....

Address.....

.....

.....

Telephone nos.

Main.....

Mobile.....

Email.....

EVENTS BEING NOTIFIED

Commencement Date – date:

Occupation of Development (Number if relevant) – date:

Completion of Development – date:

COMPLIANCE WITH OBLIGATION(S)

Schedule..... Paragraph.....

Details of obligation and compliance

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PAYMENT OF S106 CONTRIBUTIONS

Payment Type	Amount	Interim Indexation	Final Indexation	Total	Payable to
Example Education (primary)	X £	Y £	Z £	X+Y £	Herts County Council

Payment of S106 contributions can be made by BACS, CHAPS or cheque. In any event the form should be completed to ensure payment is identified correctly and forward to:

- a) The County Secretary
Hertfordshire County Council
County Hall
Pegs Lane
Hertford
Hertfordshire
SG13 8DE Ref: DU 1294)

SIGNED AS A DEED by)
CHRISTOPHER JOHN TAUNT)
as attorney for PREMIER INN)
LIMITED in the presence of:-)




Signature of Witness 

Name: 
Address:  STREET

SIGNED AS A DEED by)
CHRISTOPHER JOHN TAUNT)
as attorney for SQUARE OCTOBER)
1 LIMITED in the presence of:-)



Signature of Witness 

Name: 
Address:  STREET



SOUTHAMPTON

T: 023 8090 8090
F: 023 8090 8092

WINCHESTER

T: 01962 844440
F: 01962 842300

OXFORD

T: 01865 248607
F: 01865 728445

PORTSMOUTH

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F: 023 9222 1123

LONDON

T: 020 7405 2000
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