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(21)

B O R O U G H O F R O S S E N D A L E

INTERDEPARTMENTAL MEMORANDUM

My ref RWL/SS/Z.12/104
 Mr. R. W. Lester

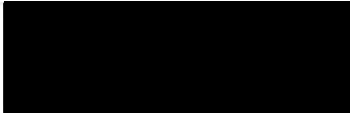
Your ref

22nd April 1994,

TO: BOROUGH TREASURER

PLANNING APPLICATION NO. 14/93/596.
TOWN AND COUNTRY PLANNING ACT, 1990, SECTION 106.
AGREEMENT - AIRTOURS PLC.

I enclose for your information a copy of the above mentioned agreement, which was completed on 5th April 1994.


J. K. Tradewell,
Borough Solicitor.

[Faint red stamp and handwritten notes, possibly a date '1994']

DATED 5th April 1994

ROSSENDALE BOROUGH COUNCIL (1)

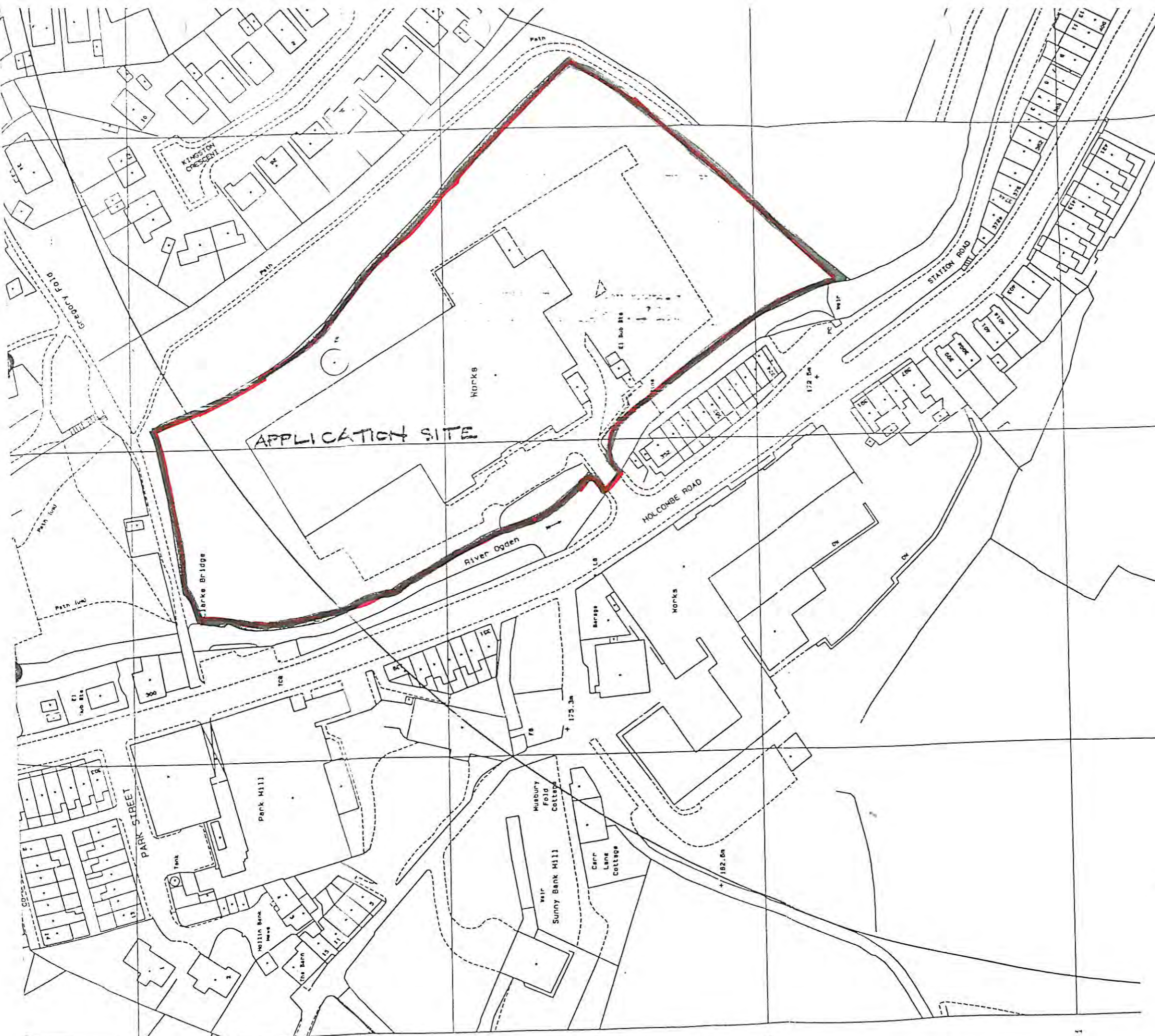
HAMILTON MCBRIDE LIMITED (2)

and

AIRTOURS PLC (3)

AGREEMENT
relating to Land at Holcombe Road
Rossendale Lancashire

Addleshaw Sons & Latham
Manchester



H0111

APPLICATION SITE

Airtours

AIRTOURS PL

Wavell House, Holcombe Road, Helmshore, Rossendale, Lancashire BB4 1PT

Tel 0706 240033 Telex 635126 Fax 0706 240034

BLOCK PLAN 1:125
DEC 199

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- (1) ROSSENDALE BOROUGH COUNCIL of the Town Hall Rawtenstall Rossendale Lancashire (the "Council")
- (2) HAMILTON MCBRIDE LIMITED whose registered office is situate at Holcombe Road Helmshore Rossendale aforesaid (the "Owner")
- (3) AIRTOURS PLC whose registered office is situate at Wavell House Holcombe Road Helmshore aforesaid (the "Developer")

WHEREAS

- 1 The Owner owns the freehold interest free from encumbrances in the parcel of land at Holcombe Road Helmshore Rossendale Lancashire shown for the purposes of identification only edged red on the plan annexed hereto (hereinafter called "the Site")
- 2 The Owner has agreed to sell the Site to the Developer subject to the grant of a satisfactory planning permission for the use of the Site for the Development (as hereinafter defined)
- 3 The Council is the local planning authority for the purposes of the Town and Country Planning Act 1990 (hereinafter called "the Act") for the area in which the Site is situated
- 4 The Developer has by written application under Reference Number 14/93/596 (hereinafter called the "Application") applied to the Council for outline planning permission for the development of the Site comprising the demolition of existing buildings the erection of a building with 175,000 square feet of B1 office floor space with ancillary storage and the construction of a car park (hereinafter called "the Development")
- 5 The Council will grant planning permission in the form contained in the First Schedule hereto pursuant to the Application (hereinafter called the

"Planning Permission") upon the Owner and Developer entering into this Agreement.

NOW THIS DEED WITNESSETH AS FOLLOWS:

- 1 This Agreement is a planning obligation for the purposes of Section 106 of the Act and the local planning authority by whom it is enforceable is the Council
- 2 This Agreement shall only take effect upon the Planning Permission being implemented by the carrying out of a material operation as defined by Section 56 of the Act exclusively referable to the Development
- 3 Neither the Owner nor the Developer shall be liable for any breach of the covenants restrictions or obligations contained in this Agreement occurring after either of them shall have parted with their interest in the Site nor for any such breach relating to any part of the Site after either of them shall have parted with their interest in that part of the Site
- 4 Without prejudice to the generality of clause 3 Hamilton McBride Limited shall not be bound by the provisions of this Agreement after it shall have parted with its interest in the Site to Airtours plc notwithstanding that it may retain or acquire a leasehold interest in the Site or any part of the Site for a term not exceeding 18 months.
- 5 If either
 - (a) the Planning Permission is no longer capable of implementation or
 - (b) a further planning permission is granted and implemented so that the Development may no longer be carried outthen the provisions of this Agreement shall be null and void and the Council shall provide the Owner with written confirmation thereof and thereafter cancel all related entries in the Register of Local Land Charges

- 6 In this Agreement the words importing masculine gender shall be deemed to include the feminine and the singular to include the plural and vice versa unless the contrary as to gender or number is expressly provided or unless the same is inconsistent with the context and where the expression "the Owner" comprises two or more persons, firms or companies the Owner's obligation shall be construed as joint and several
- 7 The Owner and the Developer HEREBY COVENANT severally with the Council as follows:
- 7.1 To pay to the Council the Contribution (as hereinafter defined) as a contribution to the reasonable cost of the Off-Site Highway Works (as hereinafter defined)
- 7.2 For the purposes of this Agreement the Off-Site Highway Works shall mean such highway improvement works on any of the roads within Helmsshore aforesaid listed in the Third Schedule hereto ("the Highways") as within four years of the first occupation of the said office floor space the Council or the highway authority shall have completed and as the Council shall have demonstrated were necessarily and specifically carried out as a result of the implementation of the Planning Permission in accordance with clause 7.3 (but excluding all highway improvement works referred to in any condition subject to which the Planning Permission is granted)
- 7.3 For the purposes of clause 7.2 the highway improvement works shall be demonstrated to have been necessarily and specifically carried out as a result of the implementation of the Planning Permission if the Council provide the Owner with a report from a suitably qualified engineer which demonstrates
- (a) prior to the improvement of the Highways the peak hour traffic flows on any of the Highways on which improvement works have been completed in accordance with clause 7.2 above had increased by at least 5% as a result of the use of the Development and had thereby

exceed the capacity of the said highways as set out in "Roads and Traffic in Urban Areas" (HMSO 1987); or

- (b) the layout of any of the Highways is rendered sub-standard in accordance with the current relevant Department of Transport Design Bulletins and Advice Notes by reason of the increase in traffic flows resulting from the use of the Development;

and in any event

- (c) the detailed design of the improvements to the Highways is commensurate with the increased demands on the Highways identified in either (a) or (b)

7.4 The Contribution shall be

- (a) the reasonable cost of the Off-Site Highway Works or £55,000 (FIFTY FIVE THOUSAND POUNDS) whichever shall be the lesser amount
- (b) paid to the Council within 28 days of receipt of the report by the Owner referred to in clause 7.3 together with a copy of the Engineer's certificate of substantial completion of the Off-Site Highway Works with sufficient detailed information to identify each component of the works and the cost thereof and if the documents to be received by the Owner in accordance with this clause are received on different dates within 28 days of receipt of the last document or within 28 days of the award of the arbitrator appointed in accordance with clause 8 in respect of the Contribution whichever shall be the later

8 Any dispute or difference arising between the parties with regard to their respective rights and obligations as to any matter or thing in any way arising out of or connected with this Agreement shall except as otherwise expressly provided be referred to the decision of a single arbitrator to be agreed by the parties or failing agreement between them to be nominated by the

President for the time being of the Institute of Civil Engineers as the case may be and any such reference shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act 1950 or 1979 or any statutory modification or re-enactment for the time being in force

9 This Agreement shall be registered in the Register of Local Land Charges

10 The Council acknowledges that it has been given a copy of this Agreement

11 In this Agreement the terms "the Council" "the Owner" and "the Developer" shall include their respective successors in title and assigns

12 The Developer hereby covenants with the Council that forthwith upon implementing the Planning Permission it will enter into a Bond in or substantially in the form set out in the Second Schedule hereto with a Surety who shall be a reputable Bank or Insurance Company approved by the Council for this purpose (such approval not to be unreasonably withheld or delayed) and such Bond shall initially be for one year and the Developer shall thereafter use all reasonable endeavours to procure that such Bond is thereafter renewed on an annual basis until the expiry of the period mentioned in clause 7.2 or until this Agreement no longer applies whichever is the earlier

13 The Owner shall make a contribution of £77 towards the Council's costs for the preparation engrossment and completion of this Agreement and shall reimburse the Council for any search fees disbursements to H M Land Registry in connection therewith

IN WITNESS WHEREOF the parties hereto have executed this Agreement as a Deed and caused their respective Common Seals to be hereunto affixed the day and year first before written

FIRST SCHEDULE
The Planning Permission
ROSENDALE BOROUGH COUNCIL

Town and Country Planning Act 1990

OUTLINE PLANNING PERMISSION

PART 1 - PARTICULARS OF APPLICATION:

Application number: 93/596 Date received: 7th December 1993

Location of proposed development:
Hamilton McBride, Holcombe Road, Helmshore, Rossendale

Particulars of proposed development:

OUTLINE - ERECTION OF 175,000 SQUARE FEET OF OFFICE FLOORSPACE (4 STOREYS) AND PROVISION OF 701 ON SITE CAR PARKING SPACES FOLLOWING THE DEMOLITION OF EXISTING FACTORY PREMISES. THE DEVELOPMENT MAY AFFECT THE SETTING OF FOOTPATH NO 369

Name and address of applicant:

Mr D Thaw
Airtours Plc
Holcombe Road
Helmshore BB4 4ND

Name and address of agent

Mr D Thaw
Airtours Plc
Holcombe Road
Helmshore BB4 4ND

PART 2: PARTICULARS OF DECISION

The Rossendale Borough Council hereby give notice in pursuance of the provisions of the Town and Country Planning Act 1990 that OUTLINE PLANNING PERMISSION HAS BEEN GRANTED for the carrying out of the development referred to in Part 1 hereof in accordance with the application and plans submitted subject to the following conditions:

1. Application for approval of reserved matters must be made not later than the expiration of three years beginning with the date of this permission and the development must be begun not later than whichever is the later of the following dates:-

- (a) the expiration of five years from the date of this permission; or
- (b) the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

REASON: Required to be imposed pursuant to section 92 of the Town and Country Planning Act 1990.

SEE SEPARATE SHEETS FOR FURTHER CONDITIONS, REASONS AND NOTES (IF ANY)

Date:

Borough Engineer and Planning Officer, Stubbylee Hall, Bacup, Lancs. OL13 0DE.
(See separate page for general information and guidance on post-decision procedures).

CONDITIONS REASONS & NOTES

2. Before any development is commenced approval shall be obtained from the local planning authority with respect to the reserved matters, namely, siting, design, means of access, external appearance and landscaping. The landscaping proposals shall include all hard and soft landscaping features (as such including where appropriate screen or boundary walls and fences or other means of enclosure) and shall be fully implemented before the building(s) is/are first occupied for the purposes of this permission or at such other time as may subsequently be agreed in writing with that authority. Any trees or shrubs becoming diseased, dying or otherwise being removed within two years of planting shall be replaced by the applicant/developer by species of a similar type and size. Reason: This is an outline permission only.
3. The premises shall be used for business (Class B1) use and for no other purpose as specified by the Town & Country Planning (Use Classes) Order 1987, or any statutory instrument revoking and re-enacting that Order. Reason: For the avoidance of doubt and in order to safeguard the residential amenity of occupiers of dwellings which abutt the site.
4. The development shall include car parking provision to comply at minimum with the County Council's car parking standards, such provisions to be available for use before the development becomes operational. Reason: To prevent on street parking to the detriment of road safety.
5. No part of the development hereby approved shall commence until a scheme for the construction of the site access (as such including the provision of a visibility splay on the river bank to the north measuring 4.5 x 90 metres and a three lane access comprising one in and two exit lanes and adequate pedestrian facilities) has been submitted to, and approved by, the local planning authority in consultation with the Highways Authority. Reason: In the interest of road safety.
6. No part of the development hereby approved shall commence until a scheme for the construction of the off-site works of highway improvement (which shall consist of a scheme of re-kerbing and white lining between the junction of Station Road and Holcombe Road and the site access to achieve improvements to the aforementioned junction and to facilitate the provision of a parking lay-by for residents only parking) has been submitted to and approved by the local planning authority in consultation with the Highway Authority. Reason: In the interest of road safety.
7. No part of the development, hereby approved shall be occupied or opened for trading until the approved highway scheme referred to in conditions Nos. 5 and 6 has been fully implemented and completed. For the avoidance of doubt and in the interests of road safety.

NOTES

1. For the avoidance of doubt it is hereby declared that this permission relates to the amended plans received by the local planning authority on 23rd December, 1993.

2. It is a requirement of the Disabled Persons Act 1981 that when planning permission is granted for certain types of development, the attention of applicants should be drawn to relevant sections of the Chronically Sick and Disabled Persons Act 1970. The Act required that all new buildings which are to be used by the public, and many other buildings where people work and are visited, should be so designed that where reasonable and practicable, they should be accessible to disabled people and provide facilities for them. The categories of development to which these requirements relate are those involving the construction, conversion, or major extension of offices, shops, railway premises, factories, schools, universities, teacher training colleges and any building to which the public are to be admitted, whether by payment or otherwise.

3. A copy of the report from the National Rivers Authority is attached for information and compliance.

4. A copy of the report from British Coal is attached for information and compliance.

SECOND SCHEDULE

BY THIS BOND AIRTOURS PLC whose registered office is situate at Wavell House Holcombe Road Helmshore Rossendale Lancashire (hereinafter called "the Developer") and

(hereinafter called "the Surety") are held and firmly bound unto **ROSSENDALE BOROUGH COUNCIL** (hereinafter called "the Council") for the period of one year from the date hereof in the sum of Fifty five thousand pounds (£55,000) in respect of contingent liability to pay the reasonable cost of the Highway Works as defined in an Agreement dated _____ herewith made under Section 106 of the Town & Country Planning Act 1990 between the Council Hamilton McBride Limited whose registered office is situate at Holcombe Road Helmshore aforesaid and the Developer for the payment of which sum the Developer and the Surety bind themselves their successors and assigns jointly and severally by these presents

Sealed with our respective seals and dated this _____ day of

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WHEREAS the Developer by the said Agreement has agreed that sums of money shall be payable to the Council in conformity with the provisions of such Agreement

NOW THE CONDITION of the above-written Bond is such that if the parties to the said Agreement shall duly perform and observe all the terms provisions conditions and stipulations of the Agreement on their respective parts to be performed and observed according to the true purport intent and meaning thereof or if on default by the Developer the Surety shall satisfy and discharge the damages sustained by the Council thereby up to the amount of the above-written Bond then this obligation shall be null and void but otherwise shall be and remain in full force and effect

THIRD SCHEDULE

Roads within Helmshore Rossendale Lancashire

Holcombe Road between and including its junctions with Grane Road and Free Lane.

Station Road between and including its junctions with Holcombe Road and Helmshore Road.

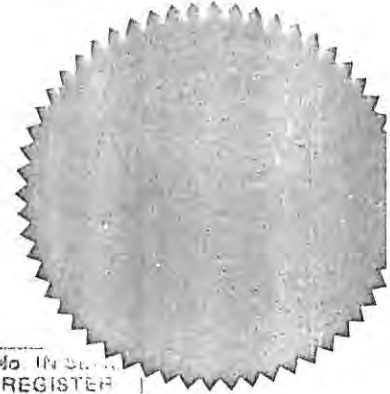
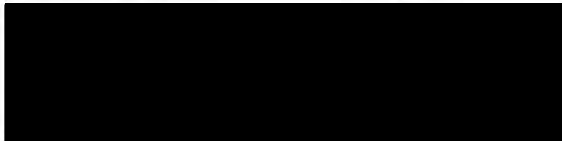
Helmshore Road/Free Lane between and including its junctions with Holcombe Road and Broadway/Gregory Fold.

Broadway between and including its junctions with Helmshore Road/Gregory Fold and the Haslingden By-Pass A56(T) roundabout interchange.

Grane Road between and including its junctions with Holcombe Road and the Haslingden By-Pass A56(T) entry and exit slip roads.

THE COMMON SEAL of)
ROSSENDALE BOROUGH)
COUNCIL was hereunto)
affixed in the presence of)

Mayor

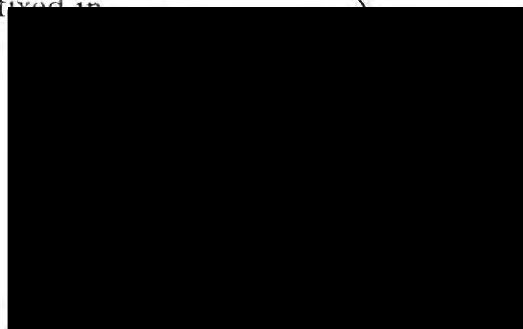


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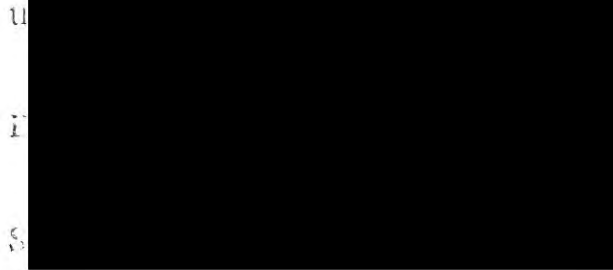
THE COMMON SEAL of)
HAMILTON MCBRIDE LTD)
was hereunto affixed in)
the presence of)

Director

Secretary



THE COMMON SEAL of)
AIRTOURS PLC)
was hereunto affixed in)



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