

DATED 18TH JANUARY 2017

(1) ROSSENDALE BOROUGH COUNCIL

(2) MR ARIF HUSSAIN

PLANNING AGREEMENT

under Section 106 Town and Country Planning Act 1990

relating to land at the former Swan Hotel, 96 Market Street, Bacup, Lancashire, OL13 0AY

Stuart Sugarman
Chief Executive
The Business Centre,
Futures Park,
Bacup.
OL13 0BB

THIS AGREEMENT is made on the 18th day of January 2017

BETWEEN:

(1) **ROSSENDALE BOROUGH COUNCIL** of The Business Centre Futures Park Bacup OL13 0BB ("the Council")

(2) **MR ARIF HUSSAIN** of [REDACTED]

BACKGROUND

- (A) For the purposes of the 1990 Act, the Council is the local planning authority for the area within which the Site is located and the person who is entitled to enforce the obligations contained in this Agreement
- (B) Lancashire County Council ("the County Council") is the Highway Authority for the area in which the Site is located
- (C) The Owner is the leasehold owner of the whole of the Site registered at the Land Registry under title numbers LA553544 free from encumbrances which would prevent the Owner entering into this Agreement
- (D) The parties have agreed to enter into this Agreement with the intention that the obligations contained in this Agreement may be enforced by the Council against the Owner and its successors in title
- (E) The Owner has by application reference 2016/0010 ("the Planning Application") applied to the Council for permission to develop the Site in the manner and for the uses set out in the Planning Application and in the plans specifications and particulars deposited with the Council and forming part of the Planning Application more particularly set out in the Second Schedule ("the Development")

- (F) The Council has decided to grant planning permission for the Development in accordance with the Planning Application subject to the making of this Agreement without which planning permission for the Development would not have been granted
- (G) The Owner agrees to pay the TRO Contribution to the Council as agents for the County Council in accordance with Second Schedule
- (H) The parties agree that the planning obligations contained in this Agreement are necessary to comply with the requirements of regulation 122 of the Community Infrastructure Regulations 2010 (as amended)

OPERATIVE PROVISIONS

1. INTERPRETATION

- 1.1 In this Agreement, the following words and expressions have the following meanings:

“1990 Act” the Town and Country Planning Act 1990
as amended by Section 12 of the Planning
and Compensation Act 1991

“Application” an application for planning permission for
the development of the Site as a
conversion of public house to restaurant,
entailing internal alterations and
construction of kitchen extension, flue and

bins store, carrying the reference
2016/0010.

“Commencement Date”

the date on which the Development commences by the carrying out on the Site pursuant to the Permission of a material operation as specified in section 56(4) of the 1990 Act

“Development”

the development of the Site in accordance with the Permission

“Permission”

the planning permission which may be granted in pursuance of the Application

“Plan”

Plan attached to this Agreement

“Site”

The leasehold property known as land at the former Swan Hotel, 96 Market Street, Bacup, Lancashire, OL13 0AY which is currently registered at the Land Registry under title number LA553544 described in the First Schedule and shown for the purposes of identification only edged red on the Plan

“Statutory Undertaker”

means any company corporation or board or authority at the date of this Agreement

authorised by statute to carry on an undertaking for the supply of telephone and television communications electricity gas water or drainage and any authorised successor to any such undertaking

“the TRO Contribution”

means the sum of £1,500 (One thousand five hundred pounds) to fund a Traffic Regulation Order to restrict parking and waiting of vehicles to be paid as outlined in the Second Schedule

2. **NOW THIS DEED** is made in pursuance of Section 106 of the Town and Country Planning Act 1990 and is a planning obligation for the purposes of that section to the intent that it shall bind all interests in the Site into whosoever hands the same may come and the Owner and his successors in title and assigns and all persons claiming under or through them:-
 - 2.2 Save for the provisions of Clause 2.11 the provisions of this Agreement shall only come into effect on the Commencement Date
 - 2.3 No person shall be liable for any breach of the covenants conditions or restrictions contained in this Agreement after he shall have parted with his interest in the Site or the relevant part of the Site in respect of which such breach occurs (but without prejudice to liability for any subsisting breach of covenant

prior to the parting with such interest)

2.4 the covenants on the part of the Owner contained in this Agreement shall not be enforceable against:-

2.4.1 purchasers lessees or mortgagees of individual units or

2.4.2 a Statutory Undertaker which has an interest in any part of the Site for the purposes of its lawful undertaking

2.5 The Owner covenants with the Council to comply with the obligations specified in the Second Schedule

2.6 The Council hereby covenants with the Owner to perform the obligations specified in the Third Schedule

2.7 It is agreed and declared as follows:-

2.8 The expressions "the Council" "the Owner" and "County Council" shall include their successors in title and assigns

2.9 Words importing the singular number only shall include the plural number and vice versa and words importing any particular gender shall include masculine feminine and neuter genders

2.10 This Agreement is a local land charge and shall be registered as such

2.11 The Owner agrees to pay the Council's reasonable legal fees in the sum of £700.00 relating to the preparation of the Agreement

2.12 All notices served pursuant to this Agreement shall be in writing and shall be deemed duly served if delivered or sent by the recorded delivery service in the following manner:-

2.12.1 in the case of a notice to be served on the Council addressed to its Chief

Executive at the above address

2.12.2 in the case of a notice to be served on the Owner to the Owner at the above address

- 2.13 If the Planning Permission is not granted or if it is revoked or the Planning Permission expires because it is not implemented this Agreement shall be annulled and of no effect and the Council shall immediately remove from its local register of local land charges any entry relating to this Agreement
- 2.14 Unless expressly stated nothing in this Agreement will create any rights pursuant to the Contracts (Rights of Third Parties) Act 1999 in favour of any person other than the parties hereto
- 2.15 Whenever in this Agreement there is reference to the Council giving its approval to any matter or scheme that reference is on the basis that such approval shall not be unreasonably withheld or delayed
3. Except as to matters of law and subject to the express provisions of this Agreement to the contrary any dispute or difference arising between the parties as to any of the provisions of this Agreement and/or their respective rights duties or obligations or as to any other matter or thing in any way arising out of or in connection with the subject matter of this Agreement shall forthwith be referred by the parties or any of them for determination by an independent person ("the Expert") to be agreed upon between the parties and failing such agreement within ten (10) Working Days of any party calling upon the others to agree to be appointed on the application of the parties or any of them by the President for the time being of The Royal Institution of Chartered Surveyors or any successor

Institute ("the President")

3.1. The Expert shall act as an expert and make his determination within twenty (20) Working Days from the date of his appointment such determination to be made in writing giving full reasons therefore and shall be binding upon the parties.

3.2. If the Expert shall die delay or become unwilling or incapable of acting or if for any reason the President shall in his absolute discretion think fit he may in writing discharge the Expert and appoint another in his place

3.3. It is hereby agreed and declared that:-

- (a) the Expert shall afford to the parties the opportunity to make representations in writing and consider any written representations made by or on behalf of the parties hereto which are received by him within ten (10) Working Days after the parties have been afforded such an opportunity and each party shall be entitled to receive a copy of any such written representations made by or on behalf of the other parties and within five (5) Working Days of such receipt to make written counter-representations
- (b) the Expert shall be entitled to call for such independent expert advice on such matters as he shall think fit
- (c) the Expert shall have an unfettered discretion to determine the reference to him
- (d) the fees and expenses of the Expert including the cost of his appointment shall be borne equally between the parties (and if any party shall pay the

Expert's fees and expenses it shall be entitled to recover one half from the other) unless the Expert shall direct otherwise and he shall have power so to direct if he considers it reasonable to do so having had regard to the conduct of the parties during the course of the dispute in question

- 4 If any payment due under this Agreement is paid late Interest will be payable from the date payment is due to the date of actual payment
- 5 Nothing contained or implied in this Agreement shall prejudice or affect the rights power and duties of the Council in exercise of their functions as Local Planning Authority and their rights powers and duties under all public and private statutes byelaws and regulations may be as fully and effectually exercised as if the Council were not a party to this Agreement PROVIDED ALWAYS for the avoidance of doubt the Council shall comply with the obligations on its part contained in this Agreement
- 8 This Agreement is governed by and interpreted in accordance with the law of England and Wales

IN WITNESS whereof these presents have been duly executed as a DEED by the parties hereto the date and year first before written

FIRST SCHEDULE

All that plot of land shown edged red on Plan annexed hereto which is situate at the Site

SECOND SCHEDULE

The Owner covenants with the Council as follows:

1. Commencement

To notify the Council in writing of the Commencement Date within seven days of the Commencement Date.

2. Contributions

Upon execution of this Agreement to pay to the Council the Traffic Regulation Order Contribution of £1500.00 together with the Council's legal fees in the sum of £700.00.

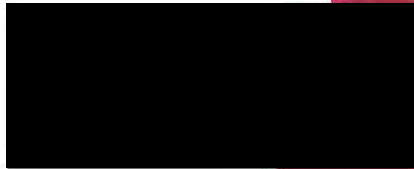
THIRD SCHEDULE

The Council covenants with the Owner as follows:

1. To issue a receipt on request for each instalment of the Contributions.
2. To use the Traffic Regulation Order Contribution towards the prohibition of parking at the junction of Market Street and Rockcliffe Road.

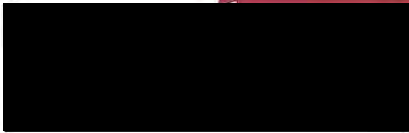
No. IN SEAL REGISTER
115313

THE COMMON SEAL of **ROSSENDALE BOROUGH COUNCIL** was hereunto affixed in the presence of:-

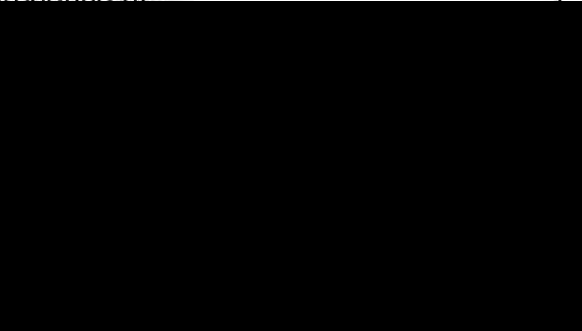


Authorised Signatory

EXECUTED as a DEED by Arif Hussain)
in the presence of:-)



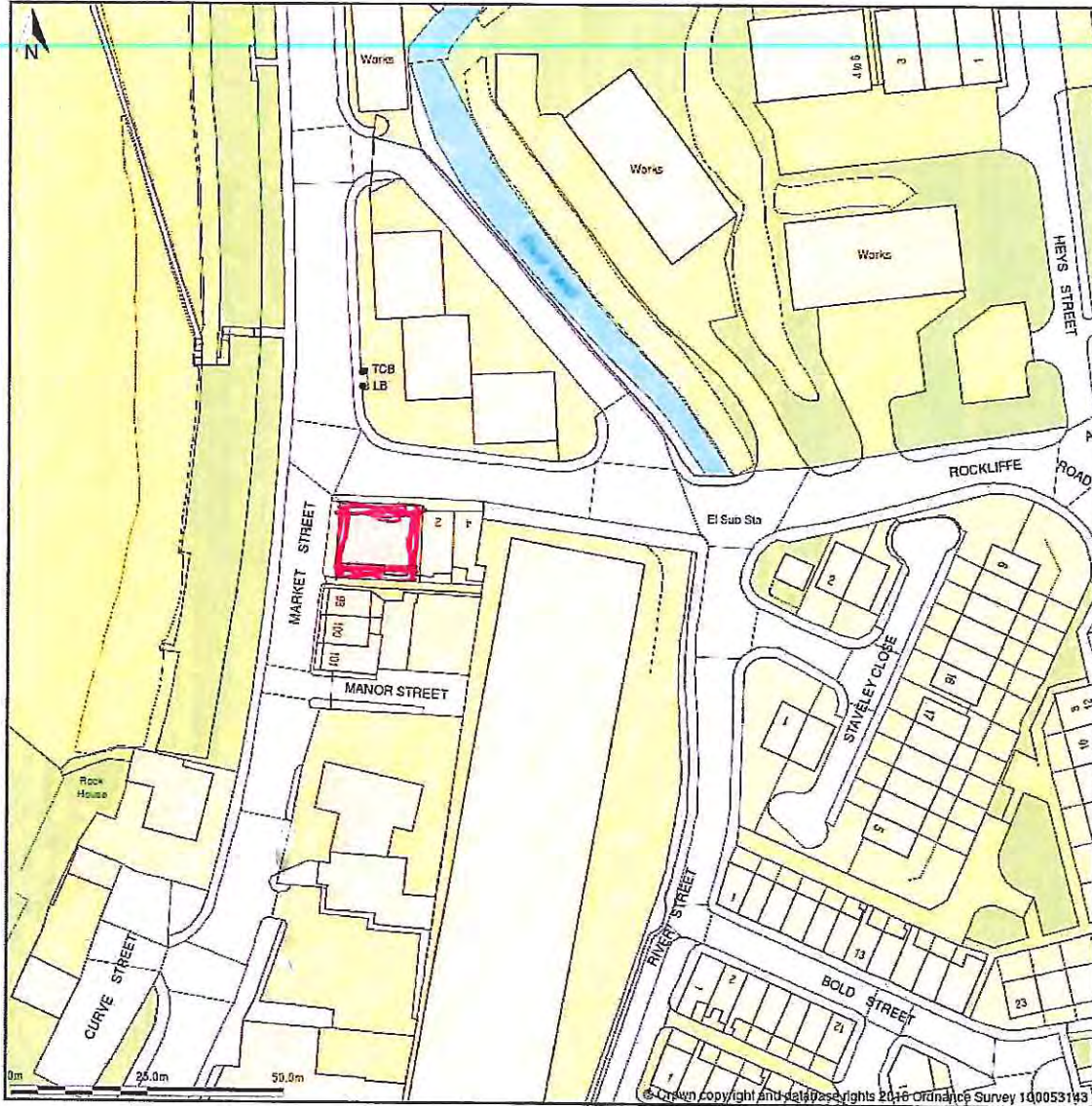
Name:-



Address:-



Swan Hotel, 96 Market Street, Bacup, OL13 0AY



Site Plan shows area bounded by: 386767.52, 422317.22 386967.52, 422517.22 (at a scale of 1:1250) The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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