

THIS AGREEMENT is made the 12th day of March 2013

BETWEEN:

(1) **T M TRUSTEES LIMITED** (Company Registered Number: 03094287) of 22-26 Clarendon Street, Nottingham, NG1 5HQ ('the Owner')

(2) **ASHFIELD DISTRICT COUNCIL** of Council Offices, Urban Road, Kirkby-in-Ashfield, Nottinghamshire, NG17 8DA ('the Council')

Definitions

IN THIS AGREEMENT the following words and phrases shall have the following meaning:-

1.1 "the Act" means Town and Country Planning Act 1990 (as amended) and terms not otherwise defined in this Agreement have the meaning ascribed to them in the Act unless a contrary intention appears

1.2 "the Application" means the Planning Application dated 18th January 2013 in respect of the Proposed Development to which has been allocated the Council's Planning Application Reference No. 2013/0021

1.3 "the Application Site" means the land for which planning permission is sought to carry out the Proposed Development and which is shown for the purposes of identification only edged red on the Plan

1.4 "Dwelling(s)" means a separate residential unit(s)

1.5 "the Obligations" means the planning obligations contained or referred to in the First Schedule to this Agreement

1.6 "the Plan" means the plan attached to this Agreement

1.7 "the Planning Permission" means the grant of Planning Permission pursuant to the Application

1.8 "the Proposed Development" means the demolition of existing building and erection of a three-storey apartment block consisting of nine apartments as more particularly described in the Application

2. **Recitals**

WHEREAS:-

2.1 The Owner is registered at H.M. Land Registry as the proprietor of the Application Site with title absolute under title number NT429160

2.2 The Owner has submitted the Application

2.3 The Council is the Local Planning Authority for the purposes of the Act for the area in which the Application Site is situated

2.4 The Council's Local Plan Review adopted in November 2002 contains inter alia HG6 (Public Open Space)

2.5 The Council acting through the delegated powers of its Head of Land and Property has resolved to grant the Planning Permission for the Proposed Development in accordance with the Application and subject to the terms of this Agreement without which the Planning Permission would not be granted

2.6 The Owner has agreed to enter into this Agreement for the purpose of procuring the issue of the Planning Permission

3. **Enabling Powers**

The parties hereto enter into this Agreement under and pursuant to Section 106 of the Act.

4. **Planning Obligations**

4.1 The Obligations are planning obligations for the purposes of Section 106 of the Act to the intent that the Obligations shall be binding and

enforceable without time limit against the Owner and any persons deriving title from him in the manner specified in Section 106 of the Act.

4.2 The Council is the Authority entitled to enforce the Obligations.

5. Conditionality

The Obligations are conditional upon the issue of the Planning Permission.

6. Covenant

The Owner hereby covenants with the Council pursuant to Section 106 of the Act that the Application Site shall be subject to the Obligations and that the Owner will at his own expense duly carry out and perform the Obligations

7. Agreements and Declarations

It is agreed and declared as follows:

7.1 Any reference to a party to this Agreement shall where the context so admits include their successors in title and assigns

7.2 Words importing one gender shall be construed as importing any gender, and words importing the singular shall be construed as importing the plural and vice versa

7.3 No person shall be liable for breach of covenant contained in this Agreement after he shall have parted with all interest in the Application Site or the part in respect of which such breach occurs but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest

7.4 If the Planning Permission having been granted shall expire before the Proposed Development is begun, or shall at any time be revoked, this Agreement shall forthwith determine and cease to have effect

IN WITNESS whereof the parties have executed this Agreement as a Deed the day and year first before written

£406.00

The Owner shall on the execution of this Agreement pay the Council's costs incurred in the preparation and settlement of this Agreement in the sum of

8. **Costs**

7.7 The Agreement is a Local Land Charge and shall be registered as such

7.6 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually

7.5 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Application Site in accordance with a planning permission (other than the one relating to the Proposed Development as specified in the Application) granted after the date of this Agreement

Ashfield



Section 106 Plan
9-11 South Street, Hucknall
V/2013/0021

Date: 24 Jan 2013

Scale: 1 to 500



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HUCKNALL

SOUTH STREET

Car Park

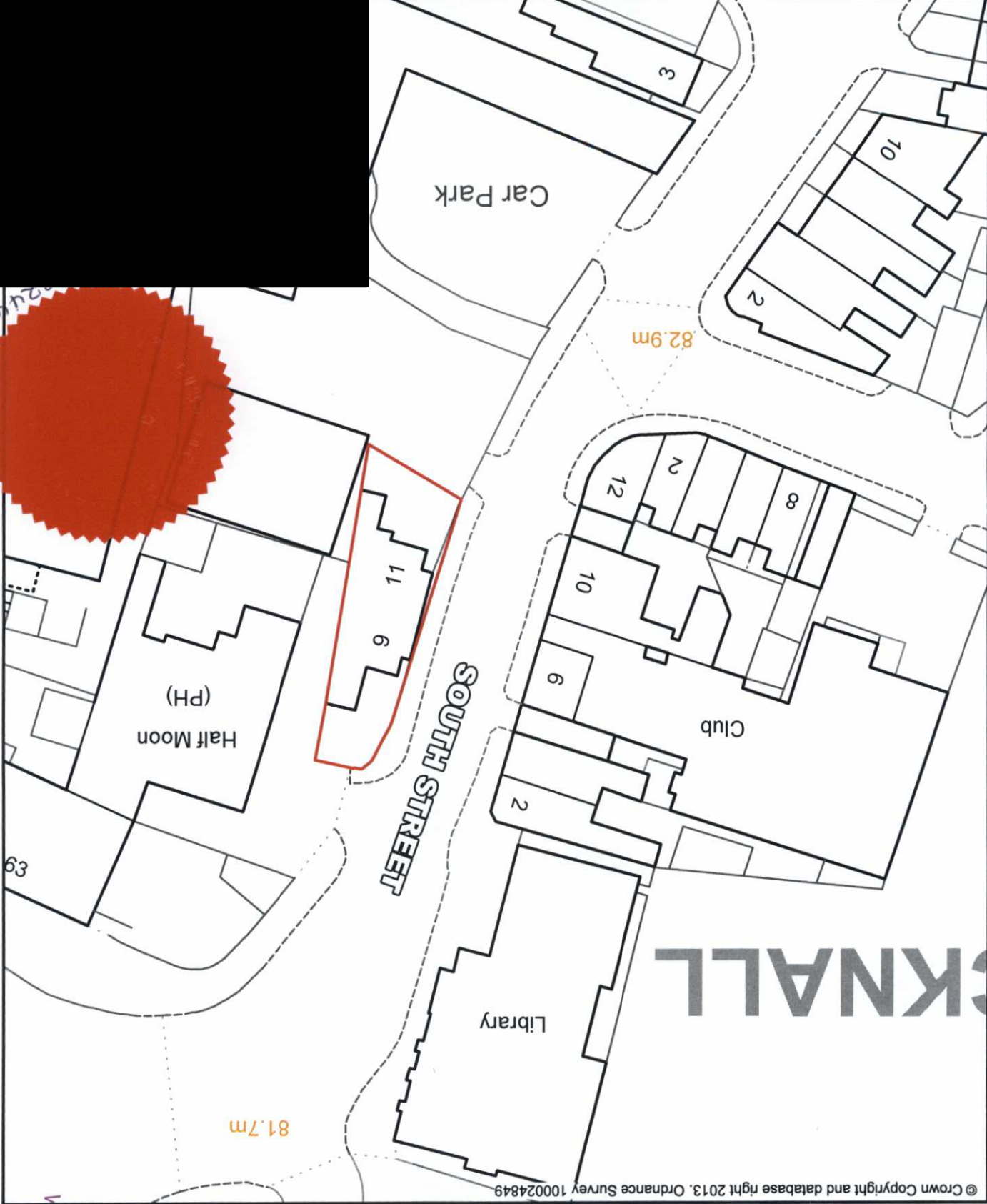
Club

Half Moon (PH)

Library

82.9m

81.7m



FIRST SCHEDULE

THE OBLIGATIONS

Prior to the first occupation of any Dwelling there shall be paid to the Council:

1. For the improvement of existing open space and/or the provision of new open space and or the planting of community woodland within the administrative district of Ashfield in Nottinghamshire the sum of TWENTY-TWO THOUSAND FIVE HUNDRED POUNDS (£22,500) ("the POS Sum")

2. Where any amount is payable pursuant to the provisions of this First Schedule the amount to be paid shall be adjusted for inflation in accordance with the following formula :-

$$(P + A) \times B$$

Where:-

P = the amount payable pursuant to this First Schedule
A = the 'all items' figure of the Retail Prices Index published by the Office for National Statistics or any successor body (the 'RPI figure') in respect of the month of January 2013.
B = the RPI figure for the month in which the relevant payment is made or (if earlier) falls due to be made

But so that if at any time B shall be less than A the amount payable pursuant to the relevant paragraphs as the case may be shall nevertheless be paid in full without reduction

PROVIDED ALWAYS that :

- (a) if such sum(s) or any part thereof shall not be paid before the actual first occupation of any Dwelling it shall carry interest at 8% per annum from the date of actual occupation until actual payment and no dwellinghouse to be built upon the Application Site shall be occupied whilst such sum(s) or any part thereof (including interest as aforesaid) remains unpaid.

(b) payment of the computed sum(s) shall not in itself constitute commencement of the Proposed Development for the purposes of implementing the Planning Permission

EXECUTED AS A DEED by
T M TRUSTEES LIMITED
acting by its Director and Secretary
or two Directors

EXECUTED AS A DEED by
ASHFIELD DISTRICT COUNCIL
having affixed its **COMMON SEAL**
to this deed in the presence of

