

DATED

14th April

2016

NORTH DEVON DISTRICT COUNCIL

TO

INSTOW PARISH COUNCIL

LEASE

of Property at

ADMINISTRATIVE AREA:

DEVON: NORTH DEVON

TITLE No:

DN556991

Contents

PRESCRIBED CLAUSES	1
LR1 Date of Lease	1
LR2 Title number(s)	1
LR3 Parties to this Lease	1
LR4 Property	2
LR5 Prescribed statements etc	2
LR6 Term for which the Property is leased	2
LR7 Premium	2
LR8 Prohibitions or restrictions on disposing of this Lease	2
LR9 Rights of acquisition etc	3
LR10 Restrictive covenants given in this Lease by the Landlord in respect of land other than the Property	3
LR11 Easements	3
LR12 Estate rentcharge burdening the Property	3
LR13 Application for standard form of restriction	3
LR14 Declaration of trust where there is more than one person comprising the Tenant	4
NON-PRESCRIBED CLAUSES	5
15 Use Allowed	5
16 The Rent	6
17 Letting	6
18 Tenant's Positive Obligations	6
19 Tenant's Negative Covenants	14
20 Provisions that Prohibit or Restrict Disposition	17
21 Council's Covenants	18
22 Agreements and Declarations	20
23 Definitions and Interpretation	24
24 Glossary	27
SCHEDULE 2	29
SCHEDULE 3	29
SCHEDULE 4	31
SCHEDULE 5	31
SCHEDULE 6	31
SCHEDULE 7	36

PRESCRIBED CLAUSES

LR1 Date of Lease

14th April 2016

LR2 Title number(s)

LR2.1 Landlord's title number(s)

DN556991

LR2.2 Other title numbers

None

LR3 Parties to this Lease

Landlord: North Devon District Council
Civic Centre
Barnstaple
Devon
EX31 1EA **(the Council)**

Tenant: Instow Parish Council
1 Old Bakery Cottages,
Bickington,
Barnstaple,
EX31 2JW

(the Tenant)

LR4 Property

The land and building known as

Marine Car Park, Marine Parade, Instow, Bidefordshown edged red on the Plan together with:

- 4.1 the structures, fixtures and fittings in SCHEDULE 1

In the case of a conflict between this clause and the remainder of this Lease then, for the purposes of registration, this clause shall prevail.

LR5 Prescribed statements etc

LR5.1 Statements prescribed under rules 179 (dispositions in favour of a charity), 180 (dispositions by a charity) or 196 (leases under the Leasehold Reform, Housing and Urban Development Act 1993) of the Land Registration Rules 2003.

None

LR5.2 This Lease is made under, or by reference to, provisions of:

None

LR6 Term for which the Property is leased

From and including: 1 April 2012

To and including: 31 March 2033

LR7 Premium

None

LR8 Prohibitions or restrictions on disposing of this Lease

This Lease contains a provision that prohibits or restricts dispositions.

LR9 Rights of acquisition etc

LR9.1 Tenant's contractual rights to renew this Lease, to acquire the reversion or another lease of the Property, or to acquire an interest in other land

None

LR9.2 Tenant's covenant to (or offer to) surrender this Lease

None

LR9.3 Landlord's contractual rights to acquire this Lease

None

LR10 Restrictive covenants given in this Lease by the Landlord in respect of land other than the Property

None

LR11 Easements

LR11.1 Easements granted by this Lease for the benefit of the Property

See SCHEDULE 2

LR11.2 Easements granted or reserved by this Lease over the Property for the benefit of other property

See SCHEDULE 3

LR12 Estate rentcharge burdening the Property

None

LR13 Application for standard form of restriction

The Parties to this Lease apply to enter the following standard form of restriction against the title of the Property

Form N (Disposition by registered proprietor of registered estate or proprietor of charge – consent required)

No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by North Devon District Council, Civic Centre, Barnstaple, Devon

EX31 1EA

LR14 Declaration of trust where there is more than one person comprising the Tenant

Not applicable

NON-PRESCRIBED CLAUSES

15 Use Allowed

- 15.1 The Tenant is to use and occupy the Property for the purpose of a car park with ancillary provision of a public use toilet and no other purpose
- 15.2 In occupying, using and doing work on the Property, the Tenant is to comply with all statutory requirements (including regulations in relation to equality of access, fire, asbestos and energy efficiency) and with the conditions attached to any permission relating to planning control or development and at all times (without prejudice to the statutory indemnity in that behalf) to indemnify the Council against all actions, proceedings, costs, expenses, claims and demands
- 15.3 The Tenant must not leave the Property unoccupied for a period exceeding 10 weekdays in anyone quarter
- 15.4 If the Property is in an area where the usual business practice is to open at certain times and days then to open during those normal business hours and days
- 15.5 The Tenant must operate the Toilet Block as a public toilet facility for use by the Council and members of the general public and must ensure that the facility is open contemporaneously with the car park opening hours or for other hours agreed in advance with the Council.
- 15.6 Nothing in this Lease or in any consent granted by the Council under this Lease shall imply or warrant that the Property may be suitable for the Use

16 The Rent

16.1 The Rent shall be one pound (£1.00 pounds) per year (if demanded).

16.2 The Rent shall be paid by in advance on the First day of January, in each calendar year of the Term the first payment (being an apportioned sum) to be made in cleared funds at the time of execution of this Lease by the Tenant

16.3 By way of additional Rent yearly in advance and payable on demand a sum or sums equal to the amount which the Council may expend in effecting and maintaining a policy of comprehensive insurance of the Property

17 Letting

17.1 **THE COUNCIL** lets the Property to the Tenant, with full title guarantee, for the Term at the Rent and on the terms in this Lease and with the benefit of the rights and easements stated in SCHEDULE 2 and subject to the rights and easements stated in SCHEDULE 3 and to existing covenants, conditions and stipulations (if any) described in SCHEDULE 4

18 Tenant's Positive Obligations

The Tenant covenants with the Council as follows:

18.1 **The Tenant is to make the following payments, with value added tax where payable:**

18.1.1 the Rent in accordance with clause 16 without any deduction or set-off

18.1.2 all periodic rates, taxes and outgoings relating to the Property, including any imposed after the date of this Lease (even if of a novel nature), to be paid on the due date to the appropriate authorities

- 18.1.3 the cost of the grant, renewal or continuation of any licence or registration for using the Property for the Use, to be paid to the appropriate authority
- 18.1.4 a registration fee of £40 plus VAT, or such other sum notified to the Tenant in advance for each document which this Lease requires the Tenant to register, to be paid to the Council when presenting the document for registration
- 18.1.5 for the Services and to indemnify the Council against all charges for the Services AND to comply with the lawful requirements and regulations of the respective suppliers of the Services AND to notify the Council of the name of the service provider and account number for each Service upon entering the Property and each and every time the service provider changes
- 18.1.6 for the disconnection fees of Services PROVIDED THAT if the Tenant does not immediately give notice to the suppliers of Services to terminate the supply upon termination of this Lease or upon the Tenant ceasing to occupy the Property for whatever reason (unless otherwise required in writing by the Council) the Council shall be entitled to secure the disconnection of those Services and recover the cost from the Tenant as if the same were a debt due to the Council from the Tenant
- 18.1.7 all costs, charges and expenses (including legal costs and fees payable to a surveyor) which may be incurred by the Council in connection with:
- 18.1.7.1 all or any licences and consents or duplicates resulting from any application by the Tenant for any licence or consent by the Council required by this Lease, whether it is given or not, such payment to include any necessary stamp duty land tax

- 18.1.7.2 the recovery of arrears of Rent
 - 18.1.7.3 the purposes of or incidental to preparing and serving a notice of a breach of the Tenant's obligations, under section 146 or section 147 of the Law of Property Act 1925, even if forfeiture of this Lease is avoided without a court order
 - 18.1.7.4 preparing and serving schedules of dilapidations either during the Term or as a record of failure to give up the Property in the appropriate state of repair when this Lease ends
 - 18.1.7.5 the cost (including professional fees) of any works to the Property which the Council does after the Tenant fails to do so
- 18.1.8 If and whenever the Tenant fails to pay the Rent or any other sum due under this Lease within twenty-eight days of the due date (whether or not demanded) the Tenant shall pay to the Council interest on such Rent or other money at the rate of three per cent per year above the National Westminster Bank plc base rate calculated on a daily basis during the period from the date on which the payment fell due to the date of payment both before and after any judgment PROVIDED THAT in the event of the National Westminster Bank plc base rate ceasing to exist such other reasonable rate of interest shall be payable by the Tenant as the Council may from time to time in writing specify

18.2 The Tenant is to keep the Property in such a condition and to do such work as to:

18.2.1 keep the Property in good repair and condition at all times during the Term so as to be safe and fit for the use detailed in clause 15.1 and as needed (to the satisfaction of the Council) to clean, repair, support and uphold of the Property including the structures, fixtures and fittings in SCHEDULE 1,

18.2.2 at all times during the Term to keep in good and serviceable repair all:

18.2.2.1 unadopted ways, roads and pavements serving only the Property

18.2.2.2 Conduits from the point at which they cease to be the responsibility of that service provider

18.2.2.3 accessways, yards and gardens within the Property

18.2.2.4 party-walls, party-structures and party-fence walls

18.2.2.5 external stone and brickwork of the Property and as and when required by the Council to clean and repoint

and the Tenant shall keep the Council indemnified against the costs, charges and expenses incurred because of this clause 18.2.2

18.2.3 decorate such partsof the Property as are usually decorated of the inside and outside of the Property in a proper workmanlike manner with two coats of good quality paint or varnish or good quality paper of the kinds and colours as may be approved by the Council:

18.2.3.1 in every third year of the Term

- 18.2.3.2 in the last three months of the Term (however it ends)
EXCEPT to the extent that it has been decorated in the
previous year and on each occasion the Tenant is to use
the colours and the types of finish used previously
- 18.2.4 from time to time when necessary rebuild the Property
- 18.2.5 fulfil all requirements under any legislation now in force or later
enacted (including regulations in relation to equality of access, fire,
asbestos and energy efficiency) even if the work necessary alters
or improves the Property and before doing it, the Tenant is to
obtain the Council's written consent (and the Council is not entitled
to withhold that consent unreasonably) and in the case of any
survey or risk assessment provide a copy of that to the Council
within 21 days of receiving it
- 18.2.6 (if any works required by clauses 18.2.1, 18.2.2, 18.2.3, 18.2.4 or
18.2.5 require licence or consent from any statutory body or from
North Devon District Council in its statutory function) obtain all
such licences or consents for the work as are required, in advance
- 18.2.7 keep any plate glass in the Property insured for its full replacement
cost with reputable insurers AND to replace any plate glass which
becomes damaged AND to give the Council details of that
insurance each year upon renewal
- 18.2.8 insure with a reputable insurance company the third party and
occupier's liability risk of the Property AND to give the Council
details of that insurance each year upon renewal
- 18.2.9 keep the Property occupied in accordance with the Use during the
Term and no further

18.2.10 permit the Council and the Council's agents at all reasonable times during the Term to enter the Property for the purpose of examining the condition of the Property or any paperwork in relation to the occupation of the Property and whether the covenants on the part of the Tenant are being observed and performed, when the Council may give notice to the Tenant of any defect or breach of covenant

18.2.10.1 If the Council gives notice to the Tenant, then the Tenant is to repair and make good all such defects or remedy any breach within three calendar months EXCEPT THAT the Tenant shall only be required to make good damage caused by an insured risk to the extent that the insurance money has not been paid because of any act or default of the Tenant

18.2.10.2 If the Tenant does not comply with the notice within three calendar months then the Council may enter the Property with all necessary workmen and execute such repairs at the expense of the Tenant, which shall be a debt due from the Tenant to the Council and be recoverable by action. Such right shall not replace the Council's right of re-entry under clause 22.2 or the rights granted by paragraph 3 of SCHEDULE 3 and shall not be in breach of clause 21.1 (quiet enjoyment)

18.2.10.3 The Tenant shall pay to the Council on demand and indemnify the Council against all surveyor's fees and other charges and expenses which the Council would normally incur even if the surveyor is an employee of the Council

18.2.11 At the end or sooner determination of the Term:

18.2.11.1 return the Property to the Council leaving it in the state and condition in which this Lease requires the Tenant to keep it

18.2.11.2 (if the Council so requires) remove anything the Tenant fixed to the Property and make good any damage which that causes

18.2.11.3 (if the Council requires) carry out to the satisfaction of the surveyor of the Council all or any works of restoration or reinstatement as may be required to be carried out by the terms of any licence or licences granted by the Council to the Tenant at any time during the Term and

18.2.11.4 make good any damage caused by the removal of any fixture or fitting belonging to the Tenant

in the case of any default by the Tenant, the Council may carry out or complete any necessary work and recover the costs incurred from the Tenants as if the same were a contract debt

18.3 The Tenant is to give the Council, or anyone with the Council's written authority, access to the Property for the following purposes:

18.3.1 inspecting the condition of the Property, or how it is being used

18.3.2 doing works which the Council is permitted to do under clauses 21.2, 21.5 and 21.6 (Council' repairs), and SCHEDULE 3 (Council' rights)

18.3.3 complying with any statutory obligation

18.3.4 viewing the Property as a prospective buyer, tenant or mortgagee

18.3.5 valuing the Property

18.3.6 inspecting, cleaning or repairing neighbouring property, or any
Conduits or Adjoining Conduits

only on seven days' written notice and during normal business hours
EXCEPT in an emergency AND the Council is promptly to make good all
damage caused to the Property and any goods in the Property exercising the
rights in this clause

18.4 The Tenant is to give to the Council a copy of any notice concerning the
Property or any neighbouring property as soon as it is received and also at
the request and cost of the Council to make (or join with the Council in
making) any objections, representations or appeals as the Council may
reasonably require in relation to any notice

18.5 The Tenant shall give the Council permission, during the last six months of
the Term, to fix a notice in a reasonable position on the outside of the
Property announcing that it is for sale or to let, which notice shall not be
removed or obscured

18.6 The Tenant shall be responsible for and shall indemnify the Council against
all damage occasioned to the Property or any adjacent or neighbouring
premises or to any person AND shall indemnify the Council against all
actions, claims, proceedings, costs, expenses and demands made against
the Council as a result of :

18.6.1 any act, omission or negligence of the Tenant or the servants
agents, licensees, or invitees of the Tenant, and

18.6.2 any breach or non-observance by the Tenant of the Tenant's
Covenants and other terms of this Lease

18.7 The Tenant must prevent any person from using any part of the Property in
such a way that he may acquire a legally binding right to continue that use

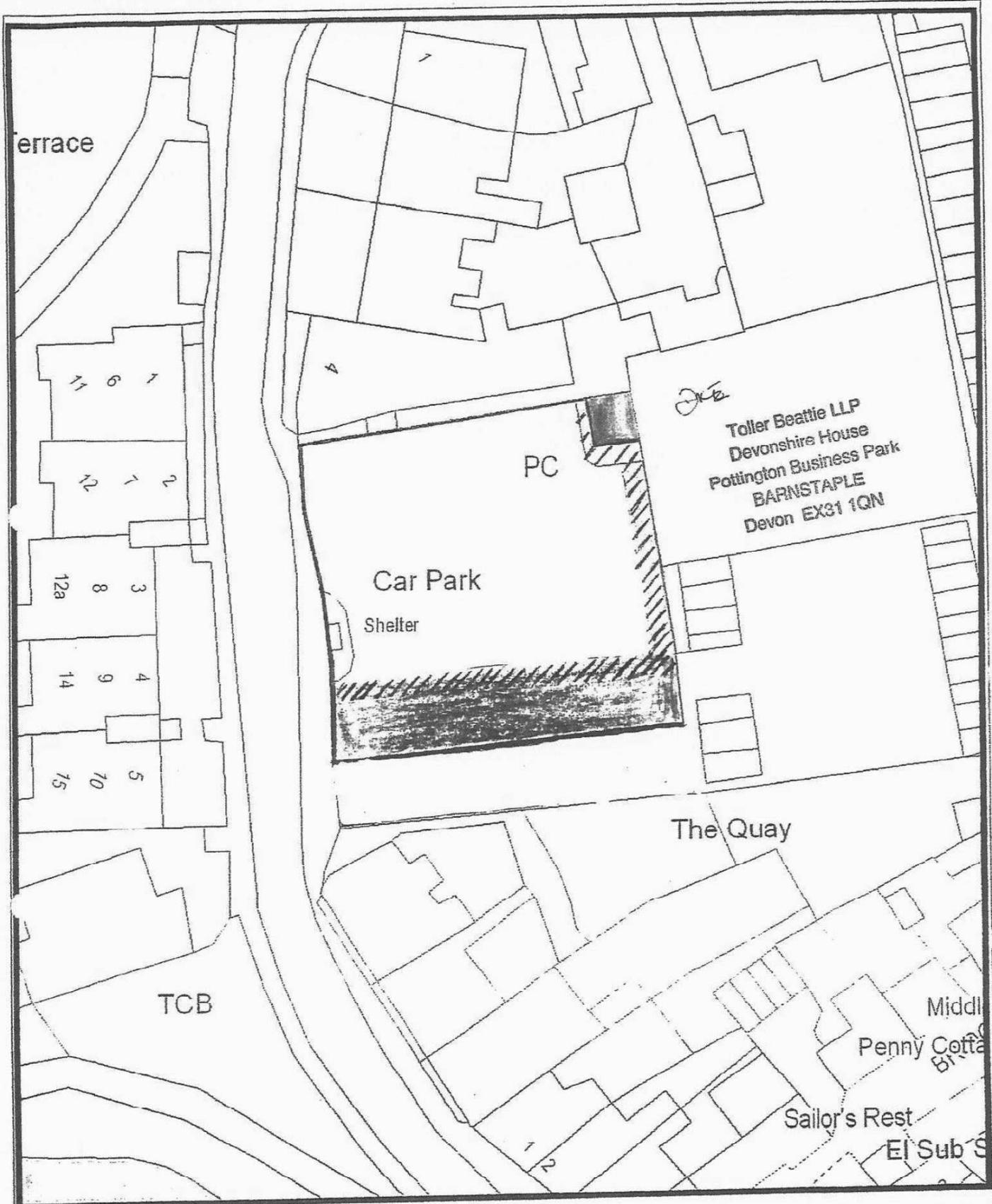
- 18.8 The Tenant must place all refuse in a proper receptacle, to be provided by the Tenant and approved by the Council, which must be kept only in a place on the Property approved by the Council, and must ensure that the rubbish is regularly collected such that the waste shall not overload the receptacles, and lawfully disposed of and/or recycled as appropriate
- 18.9 The Tenant must maintain the Garage Access and the Toilet Access at all times so as to be safe and fit for their intended use
- 18.10 The Tenant shall comply with all obligations on the Council relating to the Third Party Rights insofar as those obligations relate to the Property and shall not do anything (even if otherwise permitted by this lease) that may interfere with any Third Party Right
- 18.11 The Tenant shall allow the Council and any other person authorised by the terms of the Third Party Right to enter the Property in accordance with its terms
- 18.12 The Tenant shall in particular be responsible for all costs of provision, maintenance, replacement and repair of any items of equipment required for the purpose of car parking including pay and display machine and signs

19 Tenant's Negative Covenants

The Tenant further covenants with the Council as follows:

- 19.1 The Tenant shall first obtain the consent by deed of the Council (and then only in accordance with plans previously approved by the Council and to the satisfaction of the Council's surveyor) before doing any works, additions or alterations to the Property and without such consent the Tenant shall:
- 19.1.1 Not build or place at any time any building, structure or erection

- 19.1.2 Not make any alterations or additions either internally or externally or to cut or injure any of the outside or inside walls, floors or joists, or the Conduits
- 19.1.3 Not carry out any development within the meaning of the Town and Country Planning Act 1990 or any statutory modification or re-enactment thereof for the time being in force
- 19.1.4 Not apply for planning permission relating to the use or alteration of the Property
- 19.1.5 Not display on the exterior or in the interior of the Property any advertisement within the meaning of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 or any other Regulations relating to advertisements for the time being in force
- 19.1.6 Not erect upon or affix to the Property any machinery or scientific apparatus or any wireless television or other aerial or mast or apparatus whatsoever to the exterior the Property
- 19.1.7 Not to block up or obscure any window, doorway or other opening in the Property or interfere with the passage of light and air to the Property AND to notify the Council immediately of any such blockage or obstruction or other encroachment against the Property
- 19.2 Not erect any transmitting apparatus either to the exterior or interior of the Property
- 19.3 Not to cause any interference to the radio or television reception or other such reception of any neighbouring property
- 19.4 Not to do or omit any matter in contravention of the statutory instruments, rules, orders and regulations for the time being in force relating to planning control and development or any orders directions or notices made or given



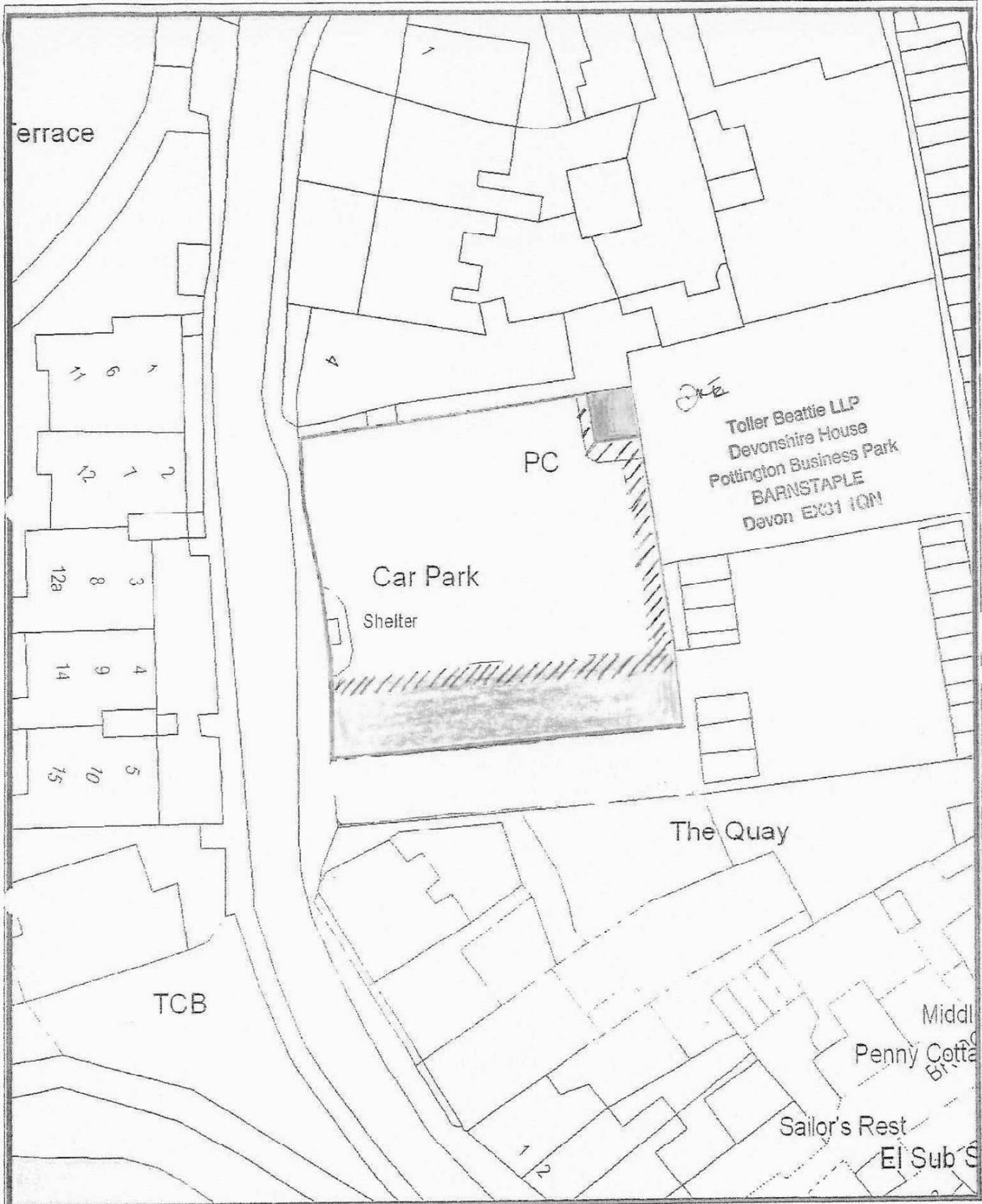
Marine Parade Car Park, Instow

COPY SUPPLIED TO:

Scale: 5m

Date: 1st February 2011

Reproduced from Ordnance Survey mapping by North Devon District Council under Copyright Licence No 100021929 © Crown Copyright Unauthorised reproduction



Marine Parade Car Park, Instow

COPY SUPPLIED TO:

Scale: 500
 Date: 1st February 2011

Reproduced from Ordnance Survey mapping by North Devon District Council under Copyright Licence No 100021929 © Crown Copyright. Unauthorised reproduction is prohibited.

under them and to obtain, comply with the terms of, renew and continue any licence or registration which is required

- 19.5 Not to do anything in or upon the Property or any part of the Property which may be or become a danger, nuisance, annoyance or cause damage to the Council or owners or occupiers of the adjoining and other property in the neighbourhood
- 19.6 Not to hold any sale by auction on any part of the Property
- 19.7 Not to use the Property for any noisy or illegal or immoral purpose or occupation
- 19.8 Not to use the Property for gambling or install any gaming apparatus at the Property
- 19.9 Not to do anything which might invalidate or make void or voidable any insurance policy or make any increased or extra premium payable for the insurance of the Property or of the building of which the Property forms a part or of any neighbouring property
- 19.10 Not to overload any part of the Property including the Conduits
- 19.11 Not to store or bring upon the Property any article that is or may become a danger to the Property or any neighbouring property and to comply with all recommendations of the insurers and fire authority as to fire precautions relating to the Property and its Use
- 19.12 Not to do or suffer to be done in or upon the Property any wilful or voluntary or permissive waste or spoil
- 19.13 Not to permit or allow the accumulation of scrap waste or unsightly vehicles or equipment in or upon the Property so as to give rise to complaints by or to the Council

19.14 Not to damage, obstruct, render inoperative or in any way interfere with any Conduits serving the Property, or any other property whether jointly with the Property or not

19.15 Not to obstruct the Garage Access or Toilet Access or deposit any waste, rubbish, soil or other material on any part of them

20 Provisions that Prohibit or Restrict Disposition

The Tenant further covenants with the Council as follows:

20.1 Not to assign or sublet this Lease or otherwise part with possession of the Property save for the subletting of part permitted in clause 20.2.

20.2 Not at any time during the Term to sublet or permit any further sub-underletting or part with the possession of the Property or any part or parts of the Property save that the Tenant can sublet part only but not without the previous consent of the Council in writing by a Licence to Sublet by deed (upon payment of the professional fees of the Council) and if such consent is given such subletting shall be by an sub-lease which has no terms inconsistent with this Lease and includes the following terms (with the intent that the same may be enforced by the Council although the Council may not be named as a party to such sub-lease):

20.2.1 a covenant by the sub-tenant with the Tenant and the Council not to assign, sublet or part with the possession of the Property

20.2.2 a covenant to produce for registration within 21 days after the making of the sub-lease (without any demand by any person) to the Council and to leave every such sub-lease with the Council or the Council's solicitor for that purpose together with a true copy of the sub-lease for their use and to pay a fee of forty pounds (£40) (plus Valued Added Tax) for the registration and the Tenant covenants with the Council that the Tenant will not release or

waive any such covenants but will by all means within the Tenant's power enforce the performance by every such sub-Tenant and the persons deriving title under such sub-tenant AND upon any such subletting if the Council shall require provide an acceptable guarantee for any private limited company

- 20.3 Within twenty-one days after the date of assignment, transfer, charge, discharge, disposition or subletting of the Property the Tenant shall leave or cause to be left for registration with the Council a certified copy of every instrument or document affecting the Property or any part of the Property or any interest in the Property (even if by operation of law) and a charge of forty pounds (£40) (plus Value Added Tax), or such other sum notified to the Tenant in advance, for such registration shall be paid by the Tenant, or any new tenant, in accordance with clause 18.1.4

21 Council's Covenants

The Tenant paying the Rents and performing and observing all and every one of the covenants, clauses, conditions and agreements in this Lease, the Council covenants with the Tenant as follows:

- 21.1 That the Tenant shall and may (subject as otherwise provided by this Lease) peaceably enjoy the Property for the Term without any interruption or disturbance by or from the Council or any person or persons lawfully claiming through, under or in trust for the Council
- 21.2 To keep in good and tenable repair and condition any parts of the structure of the Property not required to be maintained by the Tenant or any repairs necessary as insured repairs

- 21.3 To keep the Property (except the plate glass) insured with reputable insurers to cover:
- 21.3.1 full rebuilding, site clearance, professional fees, value added tax and three years' loss of rent
 - 21.3.2 risk of fire, lightning, explosion, earthquake, landslip, subsidence, heave, riot, civil commotion, aircraft, aerial devices, storm, flood, water, theft, impact by vehicles, damage by malicious persons and vandals and third party liability and other risks so far as cover is available at normal insurance rates for the locality and subject to reasonable excesses and exclusions
- 21.4 The Council will on every reasonable request produce or cause to be produced to the Tenant or the Tenant's Solicitors details of the policy or policies of such insurance signed by a duly authorised officer of the Council to certify that the premium has been paid
- 21.5 The Council will take all necessary steps to make good as soon as possible any minor damage to the Property (such that the Property remains fit for occupation) by insured risks except to the extent that the insurance money is not paid because of the act or default of the Tenant or except where clause 21.6 applies
- 21.6 If the Property is damaged by any of the risks required to be insured under clause 21.3 and as a result of that damage the Property, or any part of it, cannot be used for the Use the Council will either (at the option of the Council):
- 21.6.1 lay out or procure to be laid out the moneys to be received by virtue of such insurance (other than the sums received in respect of rent) in or towards the rebuilding and reinstatement of the Property or

- 21.6.2 apply the said moneys in such other ways as the Council shall in its absolute discretion consider appropriate and
- 21.6.3 the Rent, or a fair proportion of it, is to be suspended for three years or until the Property is fully restored, if earlier
- 21.7 in the event of the Council electing to adopt the alternative in clause 21.6.2, the Council shall notify the Tenant in writing of the decision, then the Tenant shall be entitled within the following three months to serve notice on the Council to determine the Lease as from the next day the Rent is due after the date of service by the Tenant of such notice, and this Lease shall absolutely determine at the next day the Rent is due, but WITHOUT PREJUDICE to any right of action or remedy of the Council in respect of any previous breach of any of the covenants on the part of the Tenant in the Lease AND the insurance money belongs to the Council
- 21.8 If the insurers refuse to pay all or part of the insurance money because of the Tenant's act or default:
- 21.8.1 to the extent of that refusal, the Tenant cannot claim the benefit of clause 21.6.3
- 21.8.2 the Tenant cannot serve notice under clause 21.7
- 21.9 To make good all damage done to the Property in the exercise of the rights reserved by SCHEDULE 3

22 Agreements and Declarations

IT is agreed and declared as follows:

- 22.1 This Lease contains the entire understanding of the parties relating to the Property and to all the matters dealt with by any of the provisions of this Lease

- 22.2 This Lease comes to an end if the Council forfeits it by entering any part of the Property, which the Council is entitled to do whenever:
- 22.2.1 payment of any Rent is twenty-eight days overdue, even if it was not formally demanded
 - 22.2.2 the Tenant has not complied with any of the terms of this Lease
 - 22.2.3 the Tenant if an individual (and if more than one, any of them) is adjudicated bankrupt, enters into an arrangement with his creditors or an interim receiver of the Tenant's property is appointed
 - 22.2.4 the Tenant if a company (and if more than one, any of them) goes into liquidation (unless solely for the purpose of amalgamation or reconstruction when solvent), or has an administrative receiver appointed or has an administration order made in respect of it or directors of the Tenant give notice of their intention to appoint an administrator
- 22.3 The forfeiture of this Lease does not cancel any outstanding obligation of the Tenant or any guarantor
- 22.4 The Council shall have the power at all times without obtaining any consent from or making any compensation to the Tenant to deal as the Council may think fit with any building or any of the land and property which is now or shall at any time after the date of commencement of this Lease be held by the Council adjoining, opposite or near to the Property AND to erect or suffer to be erected on such adjoining, opposite or neighbouring land and property any permanent or temporary buildings, structures or scaffolding whatsoever whether such erections shall or shall not affect or diminish the light or air which may now or at any time or times during the Term be enjoyed by the Tenant or other the occupiers for the time being of the Property or otherwise constitute a nuisance or inconvenience

- 22.5 This Lease shall not grant or be deemed to include (by implication or otherwise) in favour of the Tenant any right or privileges before enjoyed by him or by any other person previously in the occupation of the Property not expressly set out in the Lease nor any right of light or air liberties, privileges, easements or advantages (except such as may be specifically granted in this Lease) in through over and upon any land or premises adjoining or near to the Property
- 22.6 The Council shall not be liable or responsible for any loss or injuries sustained by the Tenant or any invitee or licensee of the Tenant (either personally or to their property including the Property) except in so far as any loss or injury arises as a consequence of negligence on the part of the Council its servants agents or licensees or as a result of the Council substantially failing to perform its obligations under the Lease
- 22.7 Nothing in this Lease nor any act done or authorised or approvals given under the provisions of this Lease shall imply consent or approval of the Council in the exercise of its functions as a local authority nor shall the refusal or withholding or granting of consent by the Council in the exercise of any of its functions as a local authority be taken or deemed to be a refusal or withholding or granting of consent as landlord under this Lease.
- 22.8 The Tenant shall not be or become entitled to any compensation under the provisions of Section 37 of the Landlord and Tenant Act 1954 unless the conditions set forth in sub-section (2) of Section 38 of that Act shall be satisfied in relation to the Tenant claiming compensation
- 22.9 The provisions of Section 196 of the Law of Property Act 1925 as amended by the Recorded Delivery Service Act 1962 shall apply to the service of all documents under or in connection with this Lease

22.10 Any notice to be given in connection with this Lease shall be deemed to be properly given if it is sent by registered post or recorded delivery or by personal delivery addressed:

22.10.1 To the Council at Civic Centre, Barnstaple, Devon EX31 1EA for the attention of the Head of Property & Technical Services in case of notices about the Property or the attention of the Chief Executive in relation to legal documents

22.10.2 To the Tenant by name at the address of the Property or the address given in clause LR3

22.10.3 Any other address notified by the Council or the Tenant to the other in writing as being the address for service under this clause 22.10

If so sent a notice shall be deemed to have been served not later than the first working day following the day on which it was posted

22.11 All sums payable under or in connection with this Lease in respect of Rent payable or taxable supplies received by the Tenant shall be deemed to be exclusive of Value Added Tax (or any similar tax which shall replace Value Added Tax) and upon the production by the Council to the Tenant of an invoice appropriate to that tax the Tenant shall pay such tax in addition to those sums and the Council shall have the same remedies for non-payment of the tax as if the tax were part of the Rent or the supply

22.12 The Landlord and the Tenant shall comply with the overage provisions set out in Schedule 6.

22.13 The Landlord and the Tenant agree that the break clause set out in Schedule 7 shall apply to this lease.

23 Definitions and Interpretation

23.1 In this Lease the following words or phrases shall (unless the context otherwise requires or admits) have the following meanings if in this Lease they start with an initial capital letter, but not otherwise:

Word or Phrase	Meaning
Adjoining Conduits	the pipes, sewers, drains, mains, ducts, conduits, gutters, watercourses, wires, cables, channels, flues and all other conducting media (including any fixings, louvres, cowls, covers and any other ancillary apparatus) – that are in, on, under or over any adjoining property owned by the Council or that the Council have rights over – that serve the Property
Conduits	shall mean the pipes, sewers, drains, mains, ducts, conduits, gutters, watercourses, wires, cables, channels, flues and all other conducting media (including any fixings, louvres, cowls, covers and any other ancillary apparatus) that are in, on, under or over or serve the Property
Council	means North Devon District Council as described in Clause LR3 as landlord and includes the estate owner for the time being entitled to the reversion immediately expectant upon the determination of the Term and references to “the Council” are references to North Devon District Council in its capacity as landowner and are not in relation to any statutory function of any local authority with statutory functions in the area where the Property is situated
Garage Access	the vehicular and pedestrian access coloured brown on the Plan
Lease	this lease including any clauses as prescribed by the Land Registration (Amendment) (No 2) Rules 2005 (LR clauses) together with all schedule, annexures, appendices and any later variations, but not including clause 24 (the Glossary)
Plan	the plan, or plans if more than one, annexed to this Lease

Property	the property as described in Clause LR4 and further detailed in Schedule 1. Unless the contrary is expressly stated "the Property" includes any part or parts of the Property.
Rent	the rent as stipulated in clause 16 including any increases made during the Term, rent due as repayment of insurance premiums paid by the Council and other charges due
Services	Utilities exclusively serving the Property from utility suppliers for electricity, water, gas, telecommunications and other such utilities consumed or used at or in relation to the Property including connection fees, meter rents and standing charges and any supply escaping from any Conduits carrying such services to the Property from the point at which the Conduit cease to be the responsibility of the utility supplier
Third Party Rights	all rights, covenants and restrictions affecting the Property including the matters referred to at the date of this lease in the property register and charges register of title number DN556991
Tenant	the person described as the Tenant in Clause LR3 and including the successors of title of the Tenant and those deriving title under him
Toilet Access	The pedestrian access coloured brown and pink and hatched in black on the Plan
Toilet Block	the block of public convenience toilets coloured green on the Plan
Term	the term or length of this Lease as set out in clause LR6
Use	the use allowed for the Property in accordance with the provisions of Clause 15 or any use later given permission for by the Council in writing

23.2 In this Lease where the context requires:

23.2.1 words importing the singular include the plural and vice versa

23.2.2 words importing one gender shall include all other genders

- 23.2.3 where a party consists of more than one person the covenants and obligations of that party shall take effect as joint and several covenants and obligations
- 23.2.4 references to a person shall include all legal persons
- 23.2.5 the word "including" shall be read as if followed by the words "but not limited to" and shall be without prejudice to the generality of the preceding words
- 23.3 Reference to any Act includes reference to any statutory modification or re-enactment of it for the time being in force and any order instrument or byelaw made or issued under it
- 23.4 The clause and prescribed clause headings shall not in any way affect the construction of this Lease
- 23.5 References to any clause, sub-clause, schedule, paragraph or this Lease, shall be references to such clause, sub-clause, schedule, paragraph in this Lease or this Lease as a whole
- 23.6 Any requirement in this Lease not to do anything includes an obligation not to permit or suffer that thing to be done by any other person

24 Glossary

For information only, the dictionary meanings of various words in this Lease

Word	Dictionary Meaning
acquisition	The purchase or taking a lease of land
breach	Failing to comply with the terms of an agreement
charge	A legal mortgage or other interest in someone else's land
covenant	A promise made in a deed
deed	An important legal agreement that has to be signed, witnessed and delivered before it is binding, such as a lease
determination	The ending of a lease either by surrender, the term expiring or by forfeiture
determine	To end a lease either by surrender, the term expiring or by forfeiture
dilapidations	Wear and tear that is supposed under the lease to be kept up by the tenant
disposition	The sale or leasing of land
easement	A legal right of one landowner over someone else's land to use it in a certain way, for example: a right of way
execution	To sign a document such that you intend to be bound by the terms in it; and, if it is a deed, to have it witnessed by a person unrelated to the signer and who is over 18
forfeit	To take back a lease because of breaches of the lease terms
forfeiture	The landlord taking back a lease because of breaches of the terms in the lease document or agreement made
freehold	The interest in land that the owner has who owns the land without having a landlord of their own
gender	The state of a word being feminine, masculine or neuter
indemnify	Saying that you will pay someone else's costs or losses

indemnity	A promise to pay someone else's costs or make up for their losses
Joint tenants	Ownership of land by two or more people that is such that each owns all of the land and no one person can sell or bequeath their part, because each part is not distinguishable and must pass to the other people
landlord	The person who grants a lease to the Tenant, whether the freeholder of the land or a leaseholder who grants a sub-lease
leasehold	An interest in land that the tenant has under a lease
party	A person who signs up to a contract or deed and agrees to be bound by it and have the benefit of it
proprietor	The owner of land or a lease
quasi-easement	A right over land that is like an easement, but that is not legally recognised as one person owns both parcels of land
registered estate registered title	An interest in land, whether freehold, leasehold or commonhold, that is registered at the Land Registry as a public notice to everyone else that the land is owned by a particular person
rentcharge	Money owing for freehold land – not rent under a lease
reversion	The Landlord's interest in the land that has been leased, such that he, she or they will get back when the lease is over
right	A legal right is an interest of one person that is recognised and protected by law that other people have a legally duty to uphold and it is wrong to disregard it
surrender	To return land as leased to the landlord before the term expires
tenants in common	Ownership of land by two or more people such that each owns their particular share in the money that the land is worth and each person can sell or bequeath their share separate to the others but none can take possession of the whole of the land in favour of the others
terms	The parts of a contract that make up the agreement between the parties stating what each will do for every other party, this is separate from 'Term', which is the length of the lease
without prejudice	Without affecting other rights or being evidence of any admission made

SCHEDULE 1

Structures, Fixtures & Fittings

1. The Conduits exclusively serving the Property from the point at which they cease to be the responsibility of the service provider
2. Any and all structures at the Property including all buildings, roofs, walls, foundations, finishes and internal structures within any building on the Property including the Toilet Block
3. All additions, alterations and improvements carried out during the Term

SCHEDULE 2

Rights and Easements Granted

1. The right to the free and uninterrupted passage and running of all Services through the appropriate Adjoining Conduits running through the land in the registered title given in clause LR 2.1, subject to temporary interruption for repair, alteration or replacement, in common with the Council and all other persons having a like right

SCHEDULE 3

Rights and Easements Reserved to the Council

1. The right to the free and uninterrupted passage and running of all Services through the appropriate Conduits and through any structures of a similar use or nature that may at any time be constructed in, on, under or over the Property as permitted by paragraph 2 of this Schedule

2. The right to construct and to maintain Conduits and Adjoining Conduits for the provision of Services and supplies to any adjoining property of the Council, making good all damage caused in the exercise of this right
3. The right to enter, or in an emergency to break in and enter, the Property at reasonable times and on reasonable notice except in an emergency
 - 3.1. to inspect the condition and state of repair of the Property
 - 3.2. to inspect, clean, connect to, remove, replace with others, alter or execute any works whatever to or in connection with the Conduits, Adjoining Conduits, easements, Services or supplies referred to in paragraph 1 of this Schedule
 - 3.3. to carry out work of any kind to any adjoining property of the Council or any other buildings that cannot reasonably be carried out without access to the Property including the right to erect upon and attach to any part or parts of the Property all such scaffolding as may be necessary for the exercise of the rights reserved by this paragraph of this Schedule
 - 3.4. to take schedules or inventories of fixtures and other items to be yielded up at the end of the Term
 - 3.5. to exercise any of the rights granted to the Council in this Lease
4. Full rights to use, let and build upon or alter any property now or afterwards belonging to the Council or the Council's tenants (and not the Property) at any time for any purpose in any manner whatsoever although the access of light and air to the Property may be obstructed or interfered with and despite that the carrying out of such works in a reasonable and proper manner may cause the temporary obstruction, annoyance or inconvenience to the Tenant in his occupation or use of the Property
5. All rights of support and other easements and all quasi-easements, rights and benefits of a similar nature now enjoyed or intended to be enjoyed by

any other property whether adjacent, below or above the Property and whether held by the Council or by any tenants of the Council together with the right to attach pipes wires cables boards plaster work flooring or ceilings from all ceiling or floor joists or other structural parts of the Property as the Council may from time to time require

6. the right for the Council and those authorised by it to pass with or without vehicles over and along the Garage Access to and from the public highway at all times for all purposes
7. the right for the Council and those authorised by it (including members of the general public) for pedestrian access over and along the Toilet Access to and from the public highway at all times for all purposes connected with the use of the Toilet Block.

SCHEDULE 4

Existing Covenants and Stipulations

1. As referred to in the charges register of title number DN556991

SCHEDULE 5

Rentcharges

1. None

SCHEDULE 6

Overage Provisions

1. **Interpretation**
 - 1.1 The additional definitions and rules of interpretation set out in this Schedule apply.

Additional Payment:	$(A - B) \times 100\%$, where A = Enhanced Value and B = Base Value.
Base Value:	the Market Value of the Development Land at the date of calculation of the Additional Payment with no expectation of the grant of planning permission or Development of the Development Land
Deed of Covenant:	a deed of covenant with the Council containing covenants in the same terms as those given by the Tenant in this deed
Development:	any development, works, change of use, building, construction or operations, whether under a Planning Permission or otherwise of the whole or any part or parts of the Property, with or without other land or for the purpose of facilitating development of other land, or any sale of the property as if with Development where this results in an increase in value of the Property
Development Land:	Such part or parts of the Property in respect of which Development take place during the Overage Period.
Disposal:	a disposition within the meaning of section 27(2)(a) to (d) of the Land Registration Act 2002 of the whole or any part or parts of the Property
Enhanced Value:	the Market Value of the Development Land as at the date the calculation of the Additional Payment, and as being used for the Development, assuming that the Development Land has the benefit of any easements, wayleaves, sight-line covenants and other agreements necessary to provide access, visibility splays or services to or from the Development Land
Independent Surveyor:	a Fellow of RICS with at least 10 years' experience in valuing properties similar to the Development Land, for uses similar to the Development, and whose usual place of practice is within a 60 mile radius of the Development Land
Interest Rate:	the base rate from time to time of National Westminster Bank PLC

Market Value: the estimated amount for which the Development Land should exchange between a willing buyer and a willing seller in an arm's-length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion, on the basis that:

- (a) it is assessed in accordance with valuation standard currently in use at the time of the valuation in accordance with the current RICS' valuation standards
- (b) the provisions of this deed are disregarded
- (c) the Development Land has vacant possession
- (d) the Development Land is assumed to be free from all encumbrances other than on the title as at 07 JUN 2015 at 15:05:28

Overage Period: The Term as per clause LR6 an any continuation of it

Planning Permission: any planning permission for Development pursuant to a planning application submitted to the local planning authority.

RICS the Royal Institution of Chartered Surveyors of 12 Great George Street, London SW1P 3AD or such replacement for it as is created in the future

Working Day: any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or a statutory Bank Holiday.

1.2 A **person** includes a corporate or unincorporated body.

1.3 Unless otherwise specified, a reference to a particular law is a reference to it as it is in force for the time being, taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.4 Except where a contrary intention appears, a reference to a clause is a reference to a clause of this deed

1.5 Clause headings do not affect the interpretation of this deed.

2. **Additional Payment**

2.1 If Development takes place at any time during the Overage Period, an Additional Payment shall immediately become due from the Tenant to the

- Council. The Tenant covenants that it shall pay the Additional Payment to the Council on the date 30 Working Days after the amount of the Additional Payment is agreed or determined in accordance with the terms of this deed
- 2.2 An Additional Payment shall be due in respect of each and every Development, if more than one, that takes place during the Overage Period
- 2.3 If further Development takes place during the Overage Period in respect of the same part or parts of the Property for which Development has already taken place, the Base Value for that part of the Development Land shall be equivalent to its Enhanced Value as at the date of the immediately preceding Development (calculated on a pro rata basis where applicable) with no expectation of further Development
- 2.4 The Tenant covenants with the Council that it shall pay interest at the Interest Rate to the Council on each Additional Payment for the period from the date of agreement of the Additional Payment under clause 3.1 or 3.8 to the actual date of payment of the Additional Payment
- 2.5 The Tenant covenants that it shall:
- 2.5.1 supply the Council with a copy of any planning application submitted by or on behalf of the Tenant during the Overage Period within 20 Working Days of its submission to the local planning authority; and
- 2.5.2 supply the Council with a copy of any Planning Permission granted during the Overage Period within 20 Working Days of the date of grant
- 2.5.3 tell the Council when any Development takes place
- 2.6 The Tenant covenants that it shall not to make any Disposal at any time during the Overage Period without first procuring that the person to whom the Disposal is being made has executed a Deed of Covenant and delivered the same to the Council

3. Amount of Additional Payment

- 3.1 If agreement is reached on the amount of the Additional Payment within 30 Working Days after the date of Development, the Tenant and the Council shall immediately sign and date a memorandum recording the amount of the Additional Payment and the date of the memorandum shall be the date of agreement for the purposes of clause 2.1
- 3.2 If the Tenant and the Council fail to agree on the amount of the Additional Payment within 30 Working Days of negotiation under clause 3.1, either party may refer the matter to an Independent Surveyor, which Independent Surveyor shall be appointed jointly by the parties, but in default of agreement on which surveyor to instruct, either party may apply to the President of RICS requesting the appointment of an Independent Surveyor
- 3.3 If the appointed Independent Surveyor dies or becomes unwilling or incapable of acting, or does not deliver the decision within the time required by clause 3.4 then either the Council or the Tenant may apply to the President of RICS to discharge the appointed Independent Surveyor and to appoint a replacement
- 3.4 The Independent Surveyor shall act as an expert and shall give a written copy of the decision on the amount of the Additional Payment to both the Tenant and the Council within 30 Working Days after the date of the Independent Surveyor's appointment
- 3.5 The Tenant and the Council shall each be entitled to make submissions to the Independent Surveyor and shall provide (or procure that others provide) the Independent Surveyor with the assistance and documents that the Independent Surveyor reasonably requires to reach a decision
- 3.6 The Independent Surveyor's written decision shall be final and binding in the absence of manifest error or fraud
- 3.7 The Tenant agrees to pay the Independent Surveyor's costs as they are demanded for payment as a contract debt and should such costs not be

paid by the Tenant, such that the Independent Surveyor will not give his written decision to the parties, the value given by the Council under clause 3.1 shall stand as the Additional Payment

3.8 In default of agreement pursuant to clause 3.1, the Additional Payment shall be the amount determined by the Independent Surveyor and the date of issue of the Independent Surveyor's written decision shall be taken as the date of determination for the purposes of clause 2.1.

4. Rights of Third Parties

A person who is not a party to this deed shall not have any rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act 1999.

SCHEDULE 7

Break Clause

Definitions

LR1 Break Date: each of [1st April] 2023 and [1st April] 2030

LR2 Break Notice: written notice to terminate this lease on the Break Date specifying the relevant Break Date and served in accordance with clause 0.

Exercise of break

Either the Landlord or the Tenant may terminate this lease by serving a Break Notice on the other party at least 6 months before the relevant Break Date.

Conditions

A Break Notice served by the Tenant shall be of no effect if, at the Break Date stated in the Break Notice:

the Tenant has not paid any part of the Rent, or any VAT in respect of it, which was due to have been paid; or

vacant possession of the whole of the Property is not given; or

there is a subsisting material breach of any of the tenant covenants of this lease relating to the state of repair and condition of the Property.

Termination

Subject to ~~clause 0~~ ^{the conditions above}, following service of a Break Notice this lease shall terminate on the relevant Break Date.

Termination of this lease on a Break Date shall not affect any other right or remedy that either party may have in relation to any earlier breach of this lease.

EXECUTED as a **DEED** by the Council and the Tenant on the date at the top of this Lease

THE COMMON SEAL of)
NORTH DEVON DISTRICT COUNCIL)
was affixed in the presence of:)



THE COMMON SEAL of)
INSTOW PARISH COUNCIL)
was affixed in the presence of:)