

**DATED**

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**UNILATERAL UNDERTAKING**

**GIVEN BY LANCASHIRE COUNTY COUNCIL**

**IN RESPECT OF**

Torrisholme to the M6 link (A683 Completion of Heysham to M6 Link Road) in the  
County of Lancashire

County Secretary & Solicitor  
Lancashire County Council  
PO Box 78  
County Hall  
Preston  
Lancashire  
PR1 8XJ

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**THIS UNDERTAKING** is given the

of

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**BY THE LANCASHIRE COUNTY COUNCIL** of County Hall PO Box 78 Preston Lancashire PR1 8XJ as the Highway Authority for the County of Lancashire and applicant for a development consent order in respect of the Torrisholme to the M6 link (A683 Completion of Heysham to M6 Link Road) (the "County Council") .

## **WHEREAS**

- (1) The County Council is a local planning authority for the purposes of the Town and Country Planning Act 1990 and for the County of Lancashire within which the land described in the First Schedule hereto (" the Site") is situate and by whom the obligations in this Agreement are enforceable.
- (2) The County Council is also the Highway Authority for the County of Lancashire.
- (3) The County Council is part owner of the Site and should development sent be granted for the Development it proposes to purchase the balance of the Site by agreement or pursuant to the compulsory acquisition of land authorised by the Development Consent Order.
- (4) The County Council has submitted the Application on 6 December 2011 to obtain authorisation for the Development in the form of the DCO and the application was accepted by the IPC under section 55 of the 2008 Act on 23 December 2011.
- (5) Should the Secretary of State decide to grant development consent for the Development the County Council agrees to be bound by the terms of this Deed in order to regulate and facilitate the Development.

**NOW THIS DEED WITNESSETH** as follows:-

### **1. DEFINITIONS**

- 1.1 "1990 Act" means the Town and Country Planning Act 1990 (as amended);
- 1.2 "2008 Act " means the Planning Act 2008;

- 1.3 "Application " means the application for the DCO to authorise the Development on the Site made under section 37 of the 2008 Act by the County Council to the IPC on 6 December 2011;
- 1.4 "Commencement of Development "means the implementation on the Application Site of the works authorised by the DCO as specified in Schedule 1 to the DCO by the carrying out of a material operation as defined in section 56 (4) of the Act in relation to the Development and "Commence " and cognate expressions shall be construed accordingly;
- 1.5 the "County Council" includes its successors in title and all persons deriving title under or through it and having any legal estate interest or right or title in or to the Application Site or any part or parts of it ( including those still to be purchased):
- 1.6 "Development" means work for the construction of a new dual carriageway road, 4.8 kilometres in length, starting at junction 34 of the M6 motorway and ending at the eastern end of the Heysham M6 Link Phase 1 road at the A683/A589 Morecambe Road roundabout more particularly described in Schedule 1 of the draft Development Consent Order submitted as part of the Application;
- 1.7 "DCO" means the development consent order to be made under the 2008 Act pursuant to the Application;
- 1.8 the "Development Consent Obligations " means the obligations specified in the Second Schedule hereto;
- 1.9 "the Landscape and Ecology Management Plan" means the Landscape and Ecology Management Plan approved pursuant to Requirement 5 of Schedule 2 of the DCO ;
- 1.10 the " First Planting Season" means the period between 1 October in one year and the 31 March in the following year:

- 1.12 "Site " means the land known as the route of the proposed Heysham to M6 link road , Lancaster, Lancashire as shown for the purposes of identification edged red on " Plan 1";

## **2 INTERPRETATION**

In this Undertaking (unless the context otherwise requires);

- 2.1 Clause paragraph and schedule headings do not form part of this Obligation and must not be taken into account in its construction or interpretation;
- 2.2 References to clauses paragraphs and schedules in the absence of anything expressed to the contrary are references to the clauses paragraphs and schedules of this Obligation;
- 2.3 References to any statute include reference to any statutory amendment modification or re enactment of such statute and all delegated legislation made under it;
- 2.4 Words importing any one gender include every other gender;
- 2.5 Words importing the singular number include the plural and vice versa and where any party comprises more than one person covenants and obligations on the part of that party shall be deemed to be the joint and several covenants and obligations of those persons.

## **3. OPERATIVE POWERS**

- 3.1 This Undertaking is given pursuant to section 106 of the 1990 Act to the intent that it shall bind the County Council and its successors in title and assigns to the Site and the persons claiming under or through it;
- 3.2 This Undertaking is a development consent obligation for the purposes of section 106 of the 1990 Act which shall be enforceable by the County Council as local planning authority in accordance with section 106 of the 1990 Act;
- 3.3 This Undertaking will not take effect until the DCO has been made and comes into effect.

3.4 The County Council undertakes to perform the covenants specified in the Second Schedule hereto;

3.5 This Deed is a Local Land Charge and shall be registered as such.

#### **4 COMMENCEMENT**

4.1 This Deed shall not have effect until the DCO is made.

4.2 If the DCO shall expire before the Commencement of Development or shall at any time be revoked this Deed shall forthwith determine and cease to have effect.

#### **5 RIGHTS OF THIRD PARTIES**

5.1 Any person who is not a party to this Undertaking will have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the terms of this Undertaking. This clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

#### **6 GOVERNING LAW AND JURISDICTION**

6.1 This Undertaking is to be governed by and is to be construed according to English law and the English Courts will have jurisdiction with regard to all matters arising from it.

## **THE FIRST SCHEDULE**

### **( The Site )**

The land known as the route of the proposed Heysham to M6 link road, Lancaster, as shown edged red on the attached plan marked " Plan 1"

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**THE SECOND SCHEDULE**  
**( The Planning Obligations)**

1. That County Council hereby covenants as follows:

- 1.1 That on completion of the landscaping scheme approved under requirement 20 of Schedule 2 to the DCO, to undertake management of all landscape and ecological mitigation, compensation and nature conservation measures for a period of twenty (20) years. Such management shall be undertaken shall be taken in accordance with the Landscape and Ecological Management Plan approved pursuant to requirement 5 of Schedule 2 of the DCO.
- 1.2 To hold an annual meeting to assess the success of the landscape and ecological mitigation, compensation and nature conservation measures involving representatives of the Local Planning Authority, the County Highways Authority and the ecology project manager referred to in 1.3 below. Within two months of each annual meeting, the County Highway Authority shall produce a statement setting out the management work that will be undertaken in the following year which shall be submitted to the County Council as Local Planning Authority for approval in writing.
- 1.3 Prior to the commencement of any part of the authorised development to appoint a suitably qualified ecology project manager whose post shall be retained for a period of 10 years following the opening of the highway to traffic. The role of the ecology project manager shall be to implement the recommendations contained in the Landscape and Ecology Management Plan during construction, and thereafter to ensure the successful establishment of the landscape and ecological proposals.

In witness whereof the Council executed this Undertaking as a Deed the date and year first before written.



THE COMMON SEAL of THE  
LANCASHIRE COUNTY COUNCIL  
was hereunto affixed to this Deed in  
the presence of :

Authorised Signatory .

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