

THIS AGREEMENT is made the 18th day of January One thousand nine hundred and eighty ~~three~~ ~~four~~ Appendix 12 1 of 13.

BETWEEN

(1) THE NORTH DORSET DISTRICT COUNCIL of Nordon Salisbury Road Blandford Forum in the County of Dorset (hereinafter called "the Council") and

(2) SAFEWAY DEVELOPMENT LIMITED whose registered office is situate at 16 Eastcheap, London, EC3M 1JL (hereinafter called "the Owners") and

(3) SAFEWAY FOOD STORES LIMITED whose registered office is situate at 16 Eastcheap, London, EC3M 1JL (hereinafter called ("the Tenant"))

WHEREAS

(1) The Council is the local planning authority for the purposes of the Town and Country Planning Act 1971 (hereinafter called "the Act") for the area in which the property described in the Schedule hereto (hereinafter called "the property") is situate

(2) The Owners are the owners in fee simple absolute in possession of the property and the Tenant proposes to take a lease of the property

(3) The Owners wish to obtain planning permission for development of the property by way of the erection of a retail store and other ancillary works and the Council is satisfied that the proposed development is such as may be approved by the Council under the Act but the Council desires certain restrictions to be observed and covenants to be imposed and certain other matters to be provided for in connection therewith as set out herein

NOW THIS DEED WITNESSETH as follows:

1. This Agreement is made pursuant to the provisions of Section 52 of the Act and all other enabling enactments and this agreement is also made pursuant to the provisions of Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 which said provisions are all hereby expressed to apply to this agreement so far as lawfully possible

2. (a) The Owners shall not occupy the property or any part thereof or cause or permit the property or any part thereof to be occupied other than for construction purposes until the Council have first carried out and completed upon the Marsh and Ham Car Park Blandford Forum and where applicable on any nearby land the necessary works (hereinafter called "the Works") to rearrange the Marsh and Ham Car Park Blandford Forum in accordance with the attached plan drawings and specifications in a good and workmanlike manner and to the reasonable written satisfaction of the Council's Technical Services Officer and the Owners. The Works shall include drainage installations and alterations the foundations for a flood alleviation barrier, the laying out and surfacing of new areas of car parking and the re-arrangement of existing car park spaces, appropriate levelling and re-laying of surfaces containment features, movement of car park ticket machines and universal marking out of required signs, adjustment of light standards and provision of new light standards as required and tree planting, provisions of litter baskets and fencing as required, and adjustment to walls (including facing up where necessary) Provided That it is agreed if there is a conflict or ambiguity between the provisions of this sub-clause 2(a) and the plans and

specification annexed hereto the provisions of the said specification and plans shall prevail

(b) The Council shall use its best endeavours to complete the Works on or before 30th September 1984 but if the Works have not been completed on or before 30th September 1984 then the Owners may use the property for trading purposes provided always that the Council shall not be liable either to the Owners or the Tenant in damages for failure to complete the Works on or before 30th September 1984

(c) The Owners will procure that by 1st April 1984 the Contractor appointed for the construction of the proposed retail store on the property ("the Contractor") shall offer to enter into a contract with the Council for construction of the Works on the terms hereinafter mentioned:

(i) The price for construction of the Works (except for the foundation for the flood alleviation barrier) shall not exceed £160,000

(ii) The form of such contract shall be the I.C.E. Conditions of Contract Fifth Edition (June 1973) with a completion date on or before 30th September 1984 but excluding therefrom any conditions terms provisos or other matters therein which but for this clause might have effect to increase the amount payable by the Council for construction of the Works to an amount in excess of £160,000

(iii) No bills of quantity need be supplied by the Council and the Council shall enter into such contract and there shall be a condition in such contract obliging the Contractor to allow the Marsh and Ham Car Park Blandford Forum to remain open

for public use so far as reasonably practicable Appendix 12 times 13.
and allowing use of the land coloured yellow on the said plan
by the Council until 1st June 1984

(d) The Owners will procure that by 1st April 1984 the contractor shall offer to enter into a contract with the Council for construction of the proposed foundation for the flood alleviation barrier on the terms hereinafter mentioned:

(i) The price for construction of the proposed foundation for the flood alleviation barrier shall not exceed £30,000

(ii) The form of such contract shall be the I.C.E. Conditions of Contract Fifth Edition (June 1973) with a completion date on or before 30th September 1984 but excluding therefrom any conditions terms provisos or other matters therein which but for this clause might have effect to increase the amount payable by the Council for construction of the proposed foundation for the flood alleviation barrier to an amount in excess of £30,000

(iii) No bills of quantity need be supplied by the Council and the Council shall enter into such contract

(e) The Council agree to maintain reasonable access for construction works and servicing (and if appropriate reasonable pedestrian customer access over a part of the land edged blue on the attached plan) to the property until the Works shall be completed Provided That the Council shall not be required to comply with this covenant either if it is reasonable not to do so during the flooding of the property or the said land edged

blue on the attached plan or if the Contractor prevents compliance

f) The Council and the Owners may each make such variation at their own cost to the Works as may be agreed in writing with the other such agreement not to be unreasonably withheld by either party to a request for a variation from the other and the Owners shall allow the Council all necessary rights of entry and rights to do works on the land shown edged green on the plan annexed hereto in so far as such rights are necessary for the Council to discharge its obligations under the terms of this Agreement

(g) For the purposes of this Agreement the Marsh and Ham Car Park Blandford Forum shall be deemed to mean the land edged blue including the land partly edged purple near West Street Blandford Forum aforesaid and also the land shown coloured green and coloured green and hatched black on the said plan attached hereto

(h) The Owners will pay to the Council the sum of ONE HUNDRED AND SIXTY THOUSAND POUNDS (£160,000) in consideration for which the Council will carry out the Works and the payment of the said sum shall be made as to:

(i) FIFTY THREE THOUSAND POUNDS (£53,000) on commencement of the Works; and

(ii) FIFTY THREE THOUSAND POUNDS (£53,000) on the date one month following the date of commencement of the Works; and

(iii) FIFTY FOUR THOUSAND POUNDS (£54,000) on the completion of the Works in accordance with sub-clause 2(a) hereof

(i) The Owners shall also pay to the Council on completion of the Works the sum of FIFTEEN THOUSAND POUNDS (£15,000) as a contribution towards the Council's costs expenses and fees in connection with this Agreement and the Works

3. During the period from the date of this Agreement until completion of the Works and the said development for which planning permission has been applied the Owners shall keep the Council's Technical Services Officer informed as to the works being effected from time to time and will liaise with him as necessary and the Council shall keep the Owners informed as to the progress of the Works and shall liaise with the Owners' contractors as necessary

4. The Council hereby agree to maintain in good and substantial repair the Marsh and Ham Car Park Blandford Forum following the completion of the Works to the reasonable satisfaction of the Council's Technical Services Officer and the Owners

5. (a) Subject as hereinafter mentioned and for so long only as there shall be a retail store on the property and save as otherwise agreed by the Owners the Council hereby covenants with the Owners and so as to bind the land edged blue on the plan annexed part of which land is edged purple thereon (hereinafter called "the blue land") for the benefit of the property and each and every part of it

(i) not to use the blue land for purposes other than a car park for vehicles open to the public at all times;

(ii) to keep the Marsh and Ham Car Park Blandford

Forum (except that part coloured green and hatched black on the plan) open for use at all times and to operate it as an off street car park in accordance with the terms of the Road Traffic Regulation Act 1967 or any statutory modification or re-enactment thereof (hereinafter called "the Road Traffic Acts") and as a short term shoppers car park unless prevented by a proper exercise of the powers or rights arising under the Road Traffic Acts (in which case the Council shall use its best endeavours to as nearly as possible use the Marsh and Ham Car Park Blandford Forum as a short-term car park)

(iii) in this Agreement references to a "short term shoppers car park" shall mean a car park intended primarily for the use and encouragement of the public wishing to park private motor vehicles in the Marsh and Ham Car Park Blandford Forum for a continuous period not normally exceeding two hours whilst shopping at the proposed retail store on the property and/or any other shops in Blandford Forum (or such other period as is agreed between the parties) and at charges comparable with other similar car parks in North Dorset

(iv) to procure that every person to whom the Council shall hereafter convey transfer lease or otherwise dispose of the blue land or any part thereof or interest therein shall enter into a deed with the Owners in terms similar and with the same intent as this sub-clause 5(a)

(b) The Owners hereby covenant with the Council and so as to bind the land coloured green and coloured green and hatched black on the plan attached ("the green land") so long as there shall be a retail store on the property and/or the

Council continue to use the Marsh and Ham Car Park Blandford Forum as a short-term shoppers car park:

- (i) to use the green land (except that part thereof which is coloured green and hatched black on the plan attached) or permit the same to be used only as an off street park for vehicles
- (ii) to allow the Council and their employees or licensees to enter upon the green land and use the green land (except that part thereof which is coloured green and hatched black on the plan attached) as an off-street park for vehicles available for use by the public on a pay and display basis in accordance with and subject to the terms of the Road Traffic Acts and any order made thereunder and also subject to the provisions of sub-clause 5(a) (i) to (iii) and to allow the Council to receive all revenue therefrom

(c) Nothing in clauses 5(a) and 5(b) of this agreement shall have effect so as to render either party liable to the other in the event of any reasonably necessary closure or partial closure of the lands mentioned therein as an off-street vehicle park as a result of any of the following factors; flooding, storm, earthquake, damage by explosion or impact, war, works of maintenance, or repair, layout or alteration of layout of parking spaces, laying or maintenance of pipes wires and cables, flood prevention or alleviation works, land drainage works, works on or for any nearby land owned by the Council (and in particular works on or for their nearby swimming pool) or the effecting of any such works as are

mentioned in this sub-clause so long as any such closure is for as short a duration as is reasonable in all the circumstances and has as little effect as possible on the Marsh and Ham Car Park Blandford Forum

(d) Notwithstanding the foregoing nothing in clause 5(a) of this agreement shall have effect so as to preclude the Council from lawfully disposing of any estate or interest in the blue land or any part thereof in such a manner as not to interfere with the use of the blue land as a short term shoppers car park in accordance with and subject to sub-clauses 5(a)(i) to (iii) and clauses 5(c) and 5(e) hereof

(e) When any development as now defined in Section 22 of the Town and Country Planning Act 1971 is commenced on the land at Blandford Forum aforesaid shown edged purple on the plan attached hereto (hereinafter called "the purple land") or any part thereof any obligation to use that part of the purple land in accordance with the terms of this agreement shall cease but if any car parking spaces are lost as a result thereof then before such development the Council shall replace an equal number of new car parking spaces in a location (such as the site of the Cafe or Swimming Pool area shown on the said plan) which is to the reasonable satisfaction of the Owners and in any such event such replacement car park spaces shall be deemed to form part of the purple land on the commencement of any such development as aforesaid for the purposes hereof

(f) When any development (other than mentioned in clause 5(h) hereof) as now defined in Section 22 of the Town and Country Planning Act 1971 is commenced on the green land or any

part thereof any obligation to use or allow to be used that part of the green land in accordance with the terms of this agreement shall cease but if any car parking spaces are lost as a result thereof then before such development the Owners shall replace an equal number of new car parking spaces in a location which is to the reasonable satisfaction of the Council and in any such event such replacement car park spaces shall be deemed to form part of the green land on commencement of any such development as aforesaid for the purposes hereof

(g) Nothing herein shall prevent the Council with the consent of the Owners or the Tenant (such consent not to be unreasonably withheld) from permitting occasional use of the blue land on Sundays for purpose other than an off-street park for vehicles

(h) The Owners may from time to time within the period of 80 years from the date hereof relocate the substation to be built upon the property and the Council shall if required to do so release any part of the green land at any one time for such purpose provided that the substation remains adjoining the retail store on the property and provided further that if such relocation is effected then first the Council shall not be deemed to be in breach of any of its obligations herein as a result thereof and second the Owners will reinstate a proper macadamised surface to any part of the green land previously the site of the substation as soon as is reasonably practicably

6. (a) The Owners will endeavour to keep the whole of the area under the main floor of the proposed retail supermarket reasonably free from all litter and other deposits and will

take reasonable measures to clear shopping trolleys from the Marsh and Ham Car Park Blandford Forum from time to time; and

(b) The Owners will ensure that the locks of all removable grilles are under the control of a responsible member of the staff who will be available to unlock the said grilles in an emergency at immediate notice and the Owners shall in addition supply spare keys to the said retail store and to the said grilles for retention and use by officers of the District Council and of the Wessex Water Authority

7. (a) The Owners shall pay to the Council on the date hereof the sum of ONE HUNDRED THOUSAND POUNDS (£100,000) which shall be used to pay for works forming part of the flood alleviation scheme now produced in outline for the area of Blandford Forum aforesaid (hereinafter called "the proposed scheme") and the Council shall use its best endeavours to procure that the Wessex Water Authority shall carry out the proposed scheme in a manner which will benefit (inter alia) the property as soon as reasonably practicable provided that the Council shall not be liable in damages or otherwise to the Owners if the proposed scheme is not or cannot be carried out

(b) The Council shall indemnify the Owners from any costs or expenses incurred or resulting from any legally enforceable demand made for a contribution (other than General Rates or any future statutory replacement thereof) by the Wessex Water Authority or other relevant authority in respect of any flood prevention works to the proposed retail store and other erections and buildings on the property or for the cost of any .

legally enforceable demand by the Wessex Water Authority or other relevant authority that the Owners shall do any such works

8. If any dispute or difference shall arise between the parties hereto or their respective officers or employees acting on their behalf with respect to any matter whatsoever in connection with or arising out of clauses 2 and 3 of this contract then either party shall give to the other notice in writing of such dispute or difference which shall be referred to and be determined by a single arbitrator to be agreed upon by the parties or failing such agreement to be appointed by the President of the Institution of Civil Engineers. The arbitrator who shall have the power to open up review and revise any decision instruction measurement or valuation shall determine all matters of whatsoever kind which may be the subject of dispute. Such submission shall be deemed to be under the Arbitration Act 1950 or any statutory modification or re-enactment thereof

9. The expressions "the Council" and "the Owners" shall include their respective successors in title and assigns

10. The Owners may assign this agreement to any future owner of the property

11. Notwithstanding the foregoing it is hereby agreed that whilst the Tenant has a leasehold interest in the property the provisions on the part of the Owners contained in this agreement may also be enforced by and against the Tenant but if at any particular time the Tenant does not have any leasehold estate or interest in the property then at any such time this

agreement shall be construed as if the Tenant was not a party hereto

IN WITNESS whereof the Council and the Owners and the Tenant have caused their common seals to be hereunto affixed the day and year first before written

THE SCHEDULE

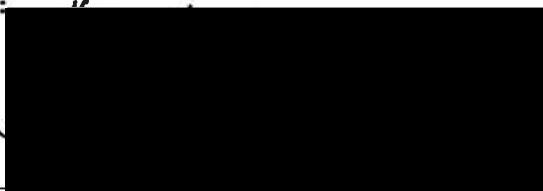
ALL THAT piece or parcel of land situate to the east and south of West Street Blandford Forum in the County of Dorset as the same is shown edged red and partly coloured green and partly coloured green and hatched black

THE COMMON SEAL OF NORTH DORSET DISTRICT COUNCIL was hereunto affixed in the presence of:



Solicitor to the Council

THE COMMON SEAL OF SAFEWAY DEVELOPMENT LIMITED was hereunto affixed in the presence of:



THE COMMON SEAL OF SAFEWAY FOOD STORES LIMITED was hereunto affixed in the presence of:

