
REPORT TO:	Development Control Committee	AGENDA ITEM: 4
DATE OF MEETING:	16 September 2003	CATEGORY: DELEGATED
REPORT FROM:	DEPUTY CHIEF EXECUTIVE	OPEN
MEMBERS' CONTACT POINT:	TR Dening	DOC:
SUBJECT:	The restoration of the footbridge at the UCI Site at Findern.	REF: 9/2003/0447
WARD(S) AFFECTED:	Etwall and Findern/Willington	TERMS OF REFERENCE:

1.0 Recommendations

- 1.1 That the Unilateral Undertaking accompanying this report be accepted and that the planning permission be issued in accordance with the recommendation to the Development Control Committee on 17 June 2003.

2.0 Purpose of Report

- 2.1 To advise the Committee of the progress of negotiations relating to contributions towards the restoration of the footbridge over the A38 between the UCI site and Findern.

3.0 Executive Summary

- 3.1 Members will recall that the report to Committee on 17 June 2003 (copy attached) recommended that planning permission be granted for the erection of a warehouse on the UCI site at Findern. This was subject to a Section 106 Agreement to secure the restoration of the footbridge over the A38 including its future adoption as a public right of way.
- 3.2 During the course of negotiations, it has become apparent that the Highways Agency cannot sign a Section 106 Agreement. It needs to be a signatory as the Agency is the authority responsible for the maintenance of the A38. Whilst not doubting the willingness of the Atkins Family Trust to enter into the Agreement, the company emphasises its need for certainty and an ability to start the development in the very short term. This, together with uncertainty about costs, has led the applicants to offer a unilateral undertaking (copy attached) to pay for the costs of the restoration of the bridge. The works to restore the bridge are identified in the Schedule accompanying the Undertaking. They would also pay reasonable additional costs up to a limit of £6000 should it be proven that the bridge is capable of economic repair following a full internal survey of the bridge that they would undertake.
- 3.3 If the survey reveals that the bridge is capable of economic repair, then the works identified will be undertaken. The applicants will then approach the Highways

Agency and the landowners on the other side of the road with a view to transferring the bridge to the Highways Agency with a view to the bridge being adopted as a public right of way. This would be achieved under the provisions of Section 94 of the Highways Act 1980. The undertaking makes provision for the dedication of the necessary land to facilitate public access.

3.4 The alternative is that the survey will reveal that the bridge is not capable of economic repair and the consequence may be the removal of the bridge unless other Agencies put funds towards its restoration.

4.0 Detail

4.1 Negotiations have been underway to secure a Section 106 Agreement as set out in the Committee report of 17 June 2003. The Highways Agency has indicated that it cannot sign up to such an agreement for legal reasons and suggested that the matter be progressed through Sections 94 & 278 of the Highways Act. This would have meant that this Authority would have no control over the restoration of the footbridge that was the primary objective.

4.2 The applicants have also expressed concern about a number of factors.

- The costs of repairing the bridge as identified in the schedule prepared and agreed far exceeded their original idea when agreeing to the restoration. Nevertheless, they remain committed to doing this restoration work subject to the results of the new structural survey.
- They have no idea of the costs of ongoing maintenance costs that formed part of the original suggested package for the Section 106 Agreement. In view of the above point, there is concern about the cost to the company spiralling out of control.
- The company is a worldwide partner to Toyota. The reason for the application for the warehouse is that Toyota is moving to a 3-shift system and space on the factory currently occupied by the applicants will no longer be available to them. The warehouse needs to be in place when Toyota moves to its new shift pattern. There is already a delay in starting the project (scheduled start date 16/09/03). Further delay will prejudice the ability of the Company to deliver on its contract to Toyota. This may mean that the business is undertaken in a site away from the Derby site. *This would clearly be a much less sustainable option*)
- The company, in the light of the above is prepared to commit to the restoration of the bridge. It will fund the restoration of the bridge but it needs certainty as to the costs. So, the proposal is to fund the cost of restoration and then seek the public adoption of the bridge with the other landowner and the Highways Agency under Section 94 of the Highways Act. It would also fund the full internal survey of the footbridge. If that survey identifies reasonable additional costs than the Company would fund these if the additional costs do not exceed £6000. If the costs exceed those identified, the consequence would be the loss of the private footbridge on the basis the costs of restoration go beyond the agreed schedule costs. *(This may be avoided if other agencies were able to fund the additional costs of restoration.)*
- The company argues that this would give the Local Planning Authority the assurance that the reasonable restoration of the bridge would be undertaken and give the company the certainty it needs both in terms of costs and the ability to start the project.

4.3 A Unilateral Undertaking has thus been prepared on behalf of the applicants and it is brought to Committee for consideration.

5.0 Financial Implications

5.1 None

6.0 Corporate Implications

6.1 None

7.0 Community Implications

7.1 There is a possibility that the private footbridge that people have used over the years would be lost to the community.

8.0 Conclusions

8.1 There is clearly a risk that the bridge would be removed if the costs go significantly beyond those already identified. The applicants are aware that if the bridge is restored, then the negotiations undertaken with the Highways Agency are likely to include an element of funding for future maintenance. The alternatives are that the bridge does not get transferred and the current owners bear the future maintenance liability or the transfer to public ownership progresses smoothly.

8.2 The view is that this represents the best that can be achieved in the circumstances that are described above.

9.0 Background Papers

9.1 File 9/2003/0445

Previous Committee Report
17 June 2003

The erection of a warehouse unit with ancillary parking, vehicle wash and fuelling facilities at U C I Logistics Burton Road Findern Derby. Planning Application Ref. no. 9/2003/0447

Site Description

The site comprises the former Atkins Garage complex now operated by UCI. The site is 'L' shaped with the longer arm fronting the A38. The site is enclosed on three sides by substantial hedges. The A38 frontage is partially screened by a substantial bund that has trees on it for part of its length. The southern most end of the A38 frontage is open.

There is a footbridge over the A38 that starts in the application site and terminates in private land on the opposite side of the road. The site has a direct access and egress onto the A38. It lies at the bottom of a slope when viewed from the north bound carriageway of the A38 and is well screened by the bund and tree planting when viewed approaching the site on the south bound carriageway.

The closest dwelling to the site is Park Farm that directly abuts the site boundary at its south-west corner. There are two other dwellings on Findern Lane Close to the site, one that has its rear elevation towards the site boundary, the other presenting its side elevation to the site. Between that dwelling and the site boundary are nursery glass houses. On the opposite side of the A38 lie dwellings on Doles Lane and Burton Road. Both these groups of houses have the road between them and the site as well as the A38.

Permission has been granted in outline for the erection of a hotel on land between Doles Lane and the A38. No detail permission exists.

Proposal

The submission has been amended significantly since it was made. Warehouse 'B' has been removed from the application. The area of the landscaped bund on the northern most part of the site frontage is to be landscaped where no planting exists now. A noise barrier fence is proposed along the boundary to Park Farm where it abuts the lorry parking area. Further landscaping is now proposed adjacent to the north west boundary adjacent to the lorry parking area.

Warehouse 'A' is 13 metres high at the eaves with a maximum height to the ridge of 16 metres. A silver grey cladding would be used on the walls. To a height of 11 metres, the cladding would have a vertical emphasis above 11 metre the cladding would be mounted horizontally. The roof cladding would be Goose wing Grey. The building would have an over all floor area of 9950 sq. metres (107000 sq. feet). Of this some 650 sq. metres is office space provided on 2 floors. The applicants have submitted photographs of the proposed building in situ to illustrate the potential impact of the building(s) from various vantagepoints. These are available for inspection on the file. It should be noted that these were prepared before the application was amended and so show warehouse 'B' as well.

The existing HGV refuelling area would be removed as part of the proposals.

Applicants' supporting information

A design statement that sets out the objectives of the development accompanies the application. Again, this was prepared prior to the amendment of the application to remove warehouse 'B'. The full statement is available for inspection but the design principles/solutions are summarised below.

- The buildings optimise the use of the site to create the required floor space.
- The internal space requires a minimum of 12 metres clear area within the building. A hipped roof has been selected to help to lower the perceived height of the building. A parapet roof would emphasise the height of the building by creating a higher façade.
- Colour - from most dwellings the buildings would be seen against the backdrop of the sky. Thus sky tones have been examined and the metallic silver selected as giving a suitably light colour. The use of the grey colour for the roof has been selected for the same reasons.
- The use of horizontal elements in the application of the cladding would also help to break up the mass of the building.
- The offices would have full height glazing with powder coated aluminium frames.
- Parking and manoeuvring space has been provided in accord with adopted standards.
- Drainage will meet the requirements of the Environment Agency.
- Landscaping proposals will ensure that the existing hedges and trees are retained and enhanced, particularly on the critical eastern boundary. Other landscaping proposals would help to integrate the building into its surroundings.

The application is also accompanied by a Traffic Impact Assessment that concludes, in basic terms that there would be a reduction in traffic, especially HGV's if the development went ahead. This document is also available for inspection on the file.

There is also a condition report on the footbridge over the A38, this is available for inspection on the file. The conclusion is that the bridge is in need of maintenance but the overall structure is in reasonable condition.

Planning History

Permission was granted in the early 1990's for a warehouse on the area to be occupied by warehouse 'A'. That warehouse was not as tall and the floor space was not as great. The scale of the building reflected the technology available at that time.

The site has a long planning history that dates back before the 1948 Planning Act. It has been used as a haulage depot for many years. There has been a transport café on the site as well as a full time petrol filling station. (This is the same area now used for diesel sales to HGV's).

The site was extended after an appeal towards the west; this is now a lorry parking/storage area on the site.

Responses to Consultations

All the following comments/objections relate to the original application prior to amendment.

Burnaston Parish Council objects for the following reasons:

a) These 2 buildings are larger than any other structure in the vicinity and will have considerable impact on the surrounding area, the topography of which almost forms a bowl like area between Derby, Burnaston and Findern. These buildings will be highly visible from nearby properties in Burnaston, Findern and Mickleover Country Park. They will not be in keeping with the area and cannot be compared to the Toyota development that is situated over the crest of a hill and is not visible from this area. The Parish Council questions why they have to be so high and could not the same cubic capacity be achieved by one large building at a lower height. The choice of colour has to be actually seen although from the choice of word (goose wing grey) they might not appear too bad, but the Parish Council does not want to repeat of the Hays building at the Dove Valley Park, Foston.

b) No landscaping measures are mentioned. The Parish Council considers this to be essential to help minimise the visual impact. Toyota is held as a perfect example of how effective tree screening really works.

c) Although the report indicates that fewer movements should occur during each day, the Parish Council has great concerns about the safety of the junction of Findern Lane and the A38. At this junction and slip road there are:

1. Vehicles travelling at speed using the whole of the slip road to gain access to the UCI site. Lorry drivers using UCI confirm that they find it difficult and dangerous to encounter traffic emerging from Findern Lane.

2. Vehicles attempting to emerge from Findern Lane and join fast moving traffic on the A38 whilst using/negotiating a slip road by vehicles turning off the A38 towards Burnaston or by vehicles coming strength down the into the UCI site a left indication can mean either. The Parish Council is aware of at least one accident involving a motorcyclist which did not appear in the statistics provided with the application.

The creation of extra jobs will result in heavier use of the route from the A516 through Burnaston village by some UCI employees, as it will considerably cut down on mileage. This will be along narrow country lanes, with no pavements and speed limit where there is already conflict between local morning traffic and drivers heading for the UCI site—often appearing to be late!

Better signage with carefully thought out wording on highly visual road signs might go some way to helping with these concerns.

d) There is no mention in the proposal of lighting. It is assumed as this is a 24 hour operation and that there will be considerable security but the Parish Council would not wish to have the present situation where most of the light is lost to the atmosphere or dazzles road users not the A38 or properties along Findern Lane (half a mile away). The Parish Council has complained about light pollution before and brought only limited results for a very short period. Proper controllable environmentally friendly down lighting such as Toyota should be insisted upon.

e) Lorry movements during 24 hours operation could cause noise disturbance to nearby neighbours. Appropriate noise control measures should be imposed. The interchange of lorry parking for car parking at the area behind Park House could help

in this respect. Restrictions should also be placed upon the lorry wash and this can be a noisy operation and consideration should be given to the neighbours by keeping the wash to daytime only.

f) The Parish Council does want to see a scheme developed on this site in order to help with employment and to bring stability and order to what is at present a jumbled collection of buildings and portacabins with a large storage area of pallets. The Parish Council would wish to avoid the pallet fire of 2 years ago. The Parish Council would hold up Toyota as a model to be copied.

Findern Parish Council has objected to the development in support of the objections raised by the local community as set out below.

The Highways Agency has no objection subject to the removal of the diesel refuelling and requests that the footbridge be upgraded and brought into public use.

The County Highways Authority has no comments.

The Environment Agency has no objection in principle subject to conditions covering an assessment of potential contamination, submission of details of surface water runoff control, and all effluent to be passed to the public foul sewer and bunding of any fuel storage areas. The various informatives in the letter will be forwarded to the applicants.

The Environmental Health Manager has requested further information about noise attenuation and the hours of operation of the site. This information has been received and the response of the Environmental Health Manager will be reported at the meeting.

Responses to Publicity

42 letters have been received objecting to the development for the following reasons:

- a) Traffic noise would be a constant 24/hrs a day and the proposal would add to the noise from the A38. This would be especially so at night when sleep would be disturbed.
- b) There would be an increase in traffic from the site and an increased danger from lorries pulling out into the A38. We have already witnessed these problems and there has been a fatal accident in the vicinity of the site.
- c) The buildings would be an eyesore. It would dominate the skyline and not be in keeping with the semi rural residential area. The colour of the buildings would add to the intrusion.
- d) Traffic fumes already drift across homes. Has a detailed assessment been carried out to establish what impact the increased traffic would have on residents with breathing disorders.
- e) The proposals suit big business and not local residents.
- f) There would be a loss in the value of houses.

The above objections appear in a letter circulated to residents and submitted individually by them. There are 36 of these letters. The following objections/comments are made in addition to the points raised above.

- g) The introduction of facilities to promote business is not objected to but it is too close to a residential area.
- h) There is no mention of the erection of a bank to lessen noise
- i) There is a potential for more traffic through Findern if lorries lose their way
- j) People moved onto Doles Lane with the knowledge that there was a main road and a haulage depot. The increase in traffic and noise was not anticipated and the situation would be made worse by the proposals for the reasons set out in a)-f) above. The situation will be worse in the immediately adjoining dwelling. The lorry wash would add to the noise levels.
- k) The level of lorry traffic is much higher than anticipated when the A38 was designed. Lorries pulling out from the site cause a constriction on the flow of traffic that can have the effect of reducing the road to a single carriageway. This is dangerous.
- l) It is not just the noise but also the vibration that has the potential to create damage to property.
- m) The lack of landscaping is an insult; the building has been designed to be as cheap as possible and this should not be allowed. More landscaping should be insisted upon.
- n) The village has had enough development with the Toyota factory and the A50. Toyota can afford to pay its suppliers a little more money to travel to and from a more suitable site. This application should be refused.
- o) The height of the building should be reduced to match the surrounding buildings.
- p) The land registry plan and site plans have a discrepancy between them.
- q) There is concern about the amount of light that may cause dazzle.
- r) It would be more acceptable if the proposed lorry parking area next to Park Hall Farm were used for cars.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 3 & 4; Economy Policy 3

Local Plan: Environment Policy 1, Employment Policy 1 & 5

Emerging Local Plan: Policy ENV 7, 15, 21; Policy EMP 2, 3.

Planning Considerations

The main issues central to the determination of this application are:

- The Development Plan
- Impact on neighbours
- Impact on the countryside
- Planning history
- The A38 Footbridge

Planning Assessment

The Development Plan encourages the reuse of land. The current use of the site is as a haulage depot and the main activity on the site after the building is constructed would still involve a significant amount of lorry movements, primarily to the Toyota

site. Policies allow for the expansion of existing firms if there is no adverse impact on the countryside or neighbours.

The removal of Warehouse B from the application means that the main issue is the impact of the remaining building that is located at the northern end of the site. This removes built development from the two closest dwellings on Findern Lane. The residents of these dwellings and others to the south of the site would still have a view of the site. It should be noted that the applicant's are likely to want to come back with proposals for another warehouse on the site but that is not a material consideration in determining the proposal now before the Authority.

There is no doubt that the building would be very apparent from the south when approaching on the A38. It would also be apparent, at a distance from some dwellings in Burnaston. The closest dwellings to the building are those on Burton Road and Doles Lane in Findern.

The upper part of the building would be apparent from these properties through a roadside hedge and beyond the landscaped bund on the application site. The Findern interchange and trees along the northern boundary of the site screen the view from the north on the A38.

The basic consideration is whether the siting of the building of the scale proposed would have such an adverse impact on the dwellings on Doles Lane sufficient to warrant a recommendation to refuse planning permission.

The applicants have set out their design principles and it is accepted that a light colour cladding would help to mitigate the impact of the development from the dwellings. In addition, the upper part of the building would be seen both against the background of the sky and through the landscaping on the site behind which the building would be substantially located. The screening and use of light coloured materials would mitigate the impact of the building from the dwellings.

The view from the south on the A38 would not be capable of mitigation as the views are always down into the site. The other consideration from the south is that the existing use already has a detrimental impact on the character and appearance of the countryside hereabouts. The new building would result in the removal of a significant number of wooden pallets from the site and unattractive, albeit non-obtrusive temporary buildings from the land.

Neighbours have raised concern about the impact of noise, traffic and light. The traffic impact study indicates an overall fall in the number of HGV's entering and leaving the site. This would have the effect of reducing the amount of noise emanating from the site. It also needs to be borne in mind that the dwellings closest to the site have traffic noise from the A38 on an almost constant basis. It would be difficult to substantiate an objection on these grounds and as such little weight has been attached to these objections.

Lighting on the site can be controlled by condition and one such condition is recommended. Loss of value to property is not a material consideration in determining any application.

The bridge over the A38 starts and terminates on private land. A section 106 Agreement would need to be signed by both parties to gain access to the bridge, carry out repairs and undertake future maintenance.

The applicants have submitted a visual assessment of the bridge that seems to indicate that it is capable of restoration with modest expenditure. There is a public footpath in the vicinity of the bridge and its availability would enhance the local footpath network.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

A) That the Planning Services Manager and Legal and Member Services Manager be **AUTHORISED** to secure an agreement under Section 106 of the Town and Country Planning Act 1990 to secure public access to the footbridge over the A38, bring about its repair in accordance with an agreed scheme of works and a commuted sum to cover future maintenance works.

B) **GRANT** permission subject to the following conditions:

The development permitted shall be begun before the expiration of five years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.

Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 14042/A1/100 Rev C.

Reason: For the avoidance of doubt, the original submission being considered unacceptable.

No development shall take place until precise details of the sources of illumination, including intensity, angling and shielding, and the area of spread of light have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity with them.

Reason: To preserve amenity and/or prevent danger to road users.

No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

Reason: In the interests of the appearance of the area.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be

replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the appearance of the area.

Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed levels.

Reason: In the interests of the appearance of the area

Draft Unilateral Undertaking

DATED

2003

UCI LOGISTICS LIMITED

-to-

SOUTH DERBYSHIRE DISTRICT COUNCIL

Unilateral Undertaking

relating to Land at Burton Road, Findern, Derby

EVERSHEDS LLP

115 Colmore Row
Birmingham
B3 3AL
Tel: 0121 232 1000
Fax: 0121 232 1900

THIS UNILATERAL UNDERTAKING is made as a Deed this

day of

2003

BY:

- (1) **UCI LOGISTICS LIMITED** whose registered office is at Badgers Rise, Prologis Park, Ridgmont, Bedfordshire MK 43 0UL (“the Owner”)

TO:

- (2) **SOUTH DERBYSHIRE DISTRICT COUNCIL** of Civic Offices, Civic Way, Swadlincote, Derbyshire DE11 OAH (“the Council”)

WHEREAS

1. The Council is the Local Planning Authority for the area within which is situated the Land (as hereinafter defined).
2. The Owner is seized for an estate in fee simple in the Land upon which stands part of the footbridge over the A38 trunk road (“the Footbridge”).
3. By planning application reference 9/2003/0447 the Owner has applied to the Council for planning permission for the development of the Land by the erection of one warehouse unit with ancillary parking (“the Planning Application”).
4. The Owner is willing to enter into this Undertaking to make provision for securing the matters hereinafter referred to and will be bound by the terms of the Undertaking should the Council grant the Planning Application.

NOW THIS DEED WITNESSETH as follows:

1. **Definitions**

In this Deed the following words and expressions shall where the context so requires or admits have the following meanings:

“1990 Act” means the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991)

“Commence/Commencing/Commencement of Development” means the date upon which works are carried out in accordance with permission granted

pursuant to the Planning Application by the carrying out of a material operation in accordance with the provisions of sections 56 and 91-93 of the 1990 Act which for the purposes of determining if a material operation has been carried out works involved in site clearance site investigation demolition decontamination and the erection of hoardings and site security shall be disregarded.

“the Land”

means the land edged red on Plan 1.

“Plan 1”

means the plan attached hereto and marked Plan 1.

“Plan 2”

means the plan attached hereto and marked Plan 2.

“Planning Permission”

means the Planning Permission granted by the Council pursuant to the Planning Application

“the Works”

means the works set out in Schedule 2

2. **Statutory Provisions**

2.1 This Undertaking is entered into by the Owner and made in pursuance of Section 106 of the 1990 Act and is a planning obligation for the purposes of Section 106 of the 1990 Act.

2.2 This Undertaking shall be enforceable by the Council

3. **Conditions Precedents**

This Undertaking is conditional and shall only have effect upon the happening of the following events:

3.1 the Council grants the Planning Permission; and

3.2 the Commencement of Development

4. **Owner's Undertaking**

IN CONSIDERATION OF AND SUBJECT TO the grant of the Planning Permission the Owner undertakes to the Council to comply with the obligations set out in Schedule 1 hereto

5. **Notices**

In the event that any notices are required to be served pursuant to this Undertaking then any notice consent or approval required to be given under this Undertaking shall be in writing and shall be delivered personally or sent by pre-paid first class recorded delivery post ~~texted~~ telex or facsimile transmission and the address for service of any such notice consent or approval shall be:

5.1 Service upon the Council through its Planning Services Manager ~~be upon the Council~~ at its address aforesaid or such other address for service as shall have been previously notified by the Council to the Owners;

5.2 In the case of service upon the Owner be at the address aforesaid or such other address for service as shall have been previously notified by the Owner upon the Council.

6. **Agreements and Declarations**

It is declared as follows:

6.1 The expressions "the Council" and "the Owner" shall include their successors in title and assigns.

6.2 The Owner does not intend that any of the terms of this Undertaking will be enforceable by virtue of the Contract (Rights of Third Parties) Act 1999 by any person not a party to it other than the Council.

6.3 The headings in this Undertaking are for convenience only and shall not be taken into account in the construction and interpretation of this Undertaking.

6.4 For the avoidance of doubt the Owner declares that in the event of the Planning Permission being quashed then this Undertaking shall absolutely determine and become null and void but without prejudice to the rights of any party including the Council against the others.

- 6.5 The Owner does not intend that any of the covenants contained in this Undertaking shall be enforceable against a statutory undertaker after the transfer of statutory apparatus by the Owner to that statutory undertaker.
- 6.6 No person shall be liable for breach of a covenant contained in this Undertaking after he shall have parted with all interest in the Site or the part in respect of which such breach occurs but without prejudice to that person's liability for any subsisting breach of contract prior to parting with such interest.
- 6.7 If the Planning Permission shall expire before the Commencement of Development as defined above or shall at any time be revoked this Undertaking shall forthwith determine and cease to have effect.
- 6.8 Nothing in this Undertaking shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than one relating to the development as specified in the Planning Application) granted (whether or not on appeal) before or after the date of this Undertaking.

7. Registration of this Undertaking

- 7.1 This Undertaking is executed as a Deed and as such is registerable as a local land charge and the Owner recognises that the Council may register it as such.

SCHEDULE 1

Footbridge

1. The Owner shall carry out a full structural survey of the Footbridge within 1 month following the Commencement of Development to ascertain whether any further works over and above the Works are required in order to bring the Footbridge up to a standard which will be suitable for use as a public footbridge and which will enable the Highways Agency to take a transfer of the Footbridge pursuant to Section 94 of the Highways Act 1980 ("the Survey")
2. In the event that the Survey concludes that either:
 - 2.1 further works over and above the Works are required in order to bring the Footbridge up to a standard which will be suitable for use as a public footbridge and which will enable the Highways Agency to take a transfer of the Footbridge pursuant to Section 94 of the Highways Act 1980 AND that the cost of these further works does not exceed £6,000; or
 - 2.2 that no such further works are requiredthen the Owner shall carry out the Works and the further works (if any).
3. The Owner shall dedicate the area edged red on Plan 2 as public highway upon the occurrence of both of the following events:
 - 3.1 completion of an agreement pursuant to section 94 of the Highways Act 1980 for the transfer of the Footbridge to the Highways Agency; and
 - 3.2 completion of the Works and the further works (if any)
4. In the event that the Survey concludes that further works are required in order to bring the Footbridge up to a standard which will be suitable for use as a public footbridge and which will enable the Highways Agency to take a transfer of the Footbridge pursuant to Section 94 of the Highways Act 1980 and that the cost of these works exceeds £6,000 or if the Highways Agency otherwise determines that the Footbridge should be removed then this Undertaking shall cease to have effect.

SCHEDULE 2

Restoration Works to the Footbridge

1. Cleaning back of existing deck surfacing, surface preparation and resurfacing of the span over its full length using an appropriate waterproof and non-slip surfacing.
2. Replacement of missing bolt under left side of east elevation plinth.
3. Concreted repair of the edges and soffits of the precast steps where necessary to restore protection to the reinforcement and inhibit further deterioration.
4. Removal of all corrosion deposits and repainting of all exposed steelwork to provide corrosion protection with minimum 10 year life.
5. Replacement of sections of the steel balustrade where visually badly corroded.
6. Traffic management as necessary to carry out the above works and provide proper protection to the public. A short closure of the footbridge will also be required to undertake the works.

**THE COMMON SEAL OF
UCI LOGISTICS LIMITED**

was affixed in the presence of:

Director

Director/Secretary

