LEICESTERSHIRE
FIRE and RESCUE SERVICE

Dated 21 September **2011**

Planning Obligation by way of Unilateral Undertaking under Section 106 of the Town & Country Planning Act 1990

Compartment Fire Training Unit
at
Caterpillar (U.K.) Ltd, Peckleton Lane, Desford, Leicestershire, LE9 9JT

Guy Goodman
Head of Corporate Services
(Solicitor and Monitoring Officer)
Fire Service HQ
Anstey Frith
Leicester Road
Glenfield
Leicester
LE3 8HD

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THIS DEED is dated 21 September 2011

AND EXECUTED BY

(1) **Hinckley and Bosworth Borough Council** of Council Offices, Argents Mead, Hinckley, Leicestershire LE10 1BZ (**the Council**)

(2) **Caterpillar (U.K.) Limited** (company number 00484783) whose registered office is situate at Peckleton Lane, Desford, Leicester LE9 9JT (**Owner**)

(3) **Leicester, Leicestershire and Rutland Combined Fire Authority** of Fire Service HQ, Anstey Frith, Leicester Road, Glenfield, Leicester, LE3 8JB (**CFA**)

Background

(A) The Council is the local planning authority for the purposes of the TCPA 1990 for the area in which the Property is situated.

(B) The Owner is the owner of the Property (together with other land) registered at the Land Registry under Title Number LT310594.

(C) The Owner has granted the CFA the Licence.

(D) The CFA has made the Planning Application and is proposing to carry out the Development.

(E) Following discussions with the Council the Owner and the CFA have agreed to enter into this deed so as to create planning obligations pursuant to Section 106 of the TCPA 1990 and to be bound by and observe the obligations set out in this deed.

Agreed terms

1. Interpretation

1.1 The definitions and rules of interpretation in this clause apply in this deed:

CFTU: a Compartment Fire Training Unit with ancillary equipment.

Commencement Date: the date that full planning permission for the Development is granted by the Council.

Development: the continued siting and use of the CFTU at the Property as described in the Planning Application.

Licence: a licence granted for a period of nine years from 1 August 2010 granted by the Owner to the CFA to use the Property for the siting of and use of a CFTU.

Plan: the Site Location Plan attached to this deed.

Property: that part of the Owner's site at Peckleton Lane, Desford, Leicestershire, LE9 9JT shown edged red on the Plan.

Planning Application: an application for planning permission registered by the Council on 15th July 2011 under reference number 11/00583/FUL.

Planning Permission: a planning permission to be granted by the Council in respect of the Planning Application.

TCPA 1990: Town and Country Planning Act 1990.

Working Day: a day (other than a Saturday, Sunday or public holiday in England).

1.2 Clause headings shall not affect the interpretation of this deed.

1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.4 Unless the context otherwise requires, words in the singular include the plural and in the plural shall include the singular.

1.5 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.6 A reference to any party shall include that party's successors to its respective statutory functions.

1.7 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

1.8 A reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.

1.9 A reference to **writing** or **written** does not include e-mail.

1.10 References to clauses and plans are to the clauses and plans of this deed unless otherwise stated.

1.11 An obligation in this deed on a person not to do something includes an obligation not to agree or allow that thing to be done.

1.12 Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

2. Statutory provisions

2.1 This deed constitutes a planning obligation for the purposes of section 106 of the TCPA 1990 and all other powers enabling.

2.2 The obligations contained in clause 3 of this deed are planning obligations for the purposes of section 106 of the TCPA 1990 and are entered into by the CFA with the intention that they bind the CFA and the Property but not the remainder of the land comprised in Title Number LT310594.

2.3 This deed shall come into effect on the Commencement Date.

2.4 The obligations contained in clause 3 of this deed are enforceable by the Council in accordance with section 106 of the TCPA 1990.

3. Covenants with the Council

The Owner and the CFA covenant with the Council that the CFTU will be used only by the CFA for the purposes of training employees of the CFA in fire behaviour and fire investigation techniques.

4. Release

No person shall be liable for any breach of an obligation, restriction or covenant contained in this deed after parting with all of its interest in the Property or the part in respect of which such breach occurs, except in respect of any breach subsisting prior to parting with such interest.

5. Determination of deed

This deed shall be determined and have no further effect if:

5.1 the Planning Permission:

(a) is varied, modified or revoked other than at the request of the CFA; or

(b) is quashed following a successful legal challenge; or

5.2 the Licence is determined.

6. Local land charge

This deed is a local land charge and shall be registered as such by the Council.

7. Notices

7.1 Any notice or other communication required to be given under this deed shall be in writing and shall be delivered personally, or sent by pre-paid first class post or recorded delivery or by commercial courier, to the Owner, the CFA or the Council at their Headquarters at that time.

7.2 Any notice or other communication shall be deemed to have been duly received:

(a) if delivered personally, when left at the address and for the contact referred to in this clause;

(b) if sent by pre-paid first class post or recorded delivery, at 9.00 am on the second Working Day after posting; or

(c) if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

8. Third party rights

No person other than the Owner, the CFA and the Council shall have any rights to enforce any term of this deed.

9. Severance

9.1 If any court or competent authority finds that any provision of this deed (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this deed shall not be affected.

9.2 If any invalid, unenforceable or illegal provision of this deed would be valid, enforceable and legal if some part of it were deleted, the CFA shall amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the CFA and Council's original intention.

10. Governing Law

This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England.

11. Future Development

Nothing in this deed shall prohibit or limit the right to develop any part of the Property (or the remainder of the land comprised in Title Number LT310594 in accordance with a planning permission other than the one relating to the Development as specified in the Planning Application in substitution hereof)granted (whether or not on appeal) after the date of this deed.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Executed as a deed by affixing the Common Seal of Hinckley & Bosworth Borough Council in the presence of:-)

.....
Authorised Signatory

Executed as a deed (but not delivered until the date hereof) by Caterpillar (U.K.) Limited acting by two directors or one director and secretary:)

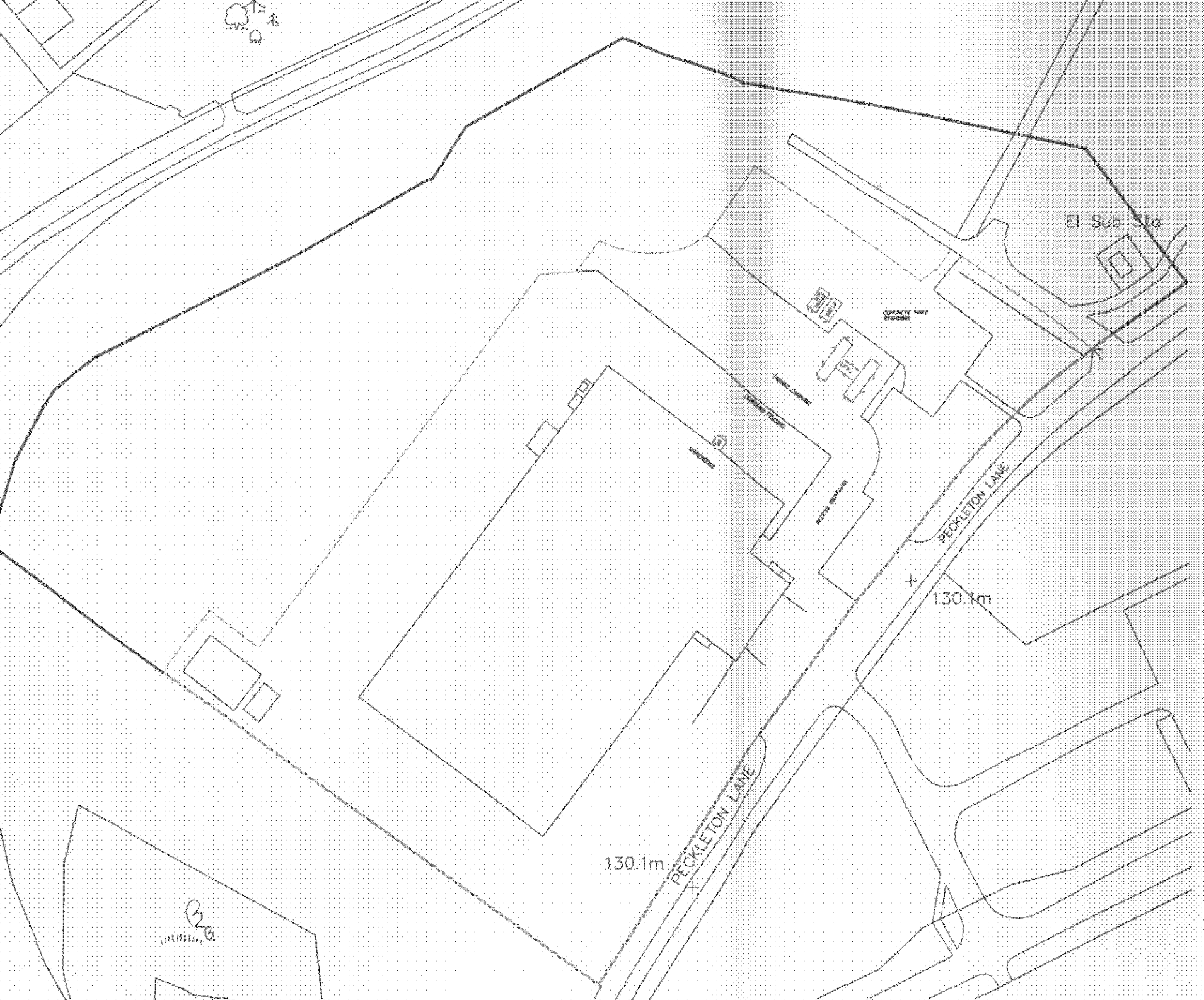
.....
Director

.....
~~Director~~/Secretary

Executed as a deed by affixing the Common Seal of Leicester, Leicestershire and Rutland Combined Fire Authority in the presence of:-)

.....
Authorised ~~Signatory~~

D14(11)



LEICESTERSHIRE

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REVISIONS

LEICEST

PROJECT NUMBER

PROJECT TITLE

CFTU D
CATER

TITLE

SITE

DRAWING No.