

## ANNEX

<b><u>s. 106 Agreement</u></b>		<b>Date:</b> <i>22nd August, 2001</i>
<b>Supermarket Site, Cambourne</b>		SCDC Legal Office Ref. C 017
Reserved Matters Application Date(s): 23rd August 2000 (as amended by letters dated 27th April 2001, 18th May 2001 and subsequent drawings).		<b>Planning Reference Nos: S/1371/92/O dated 20th April 1994 and application for approval of reserved matters S/6084/00/RM and S/6085/00/RM</b>
Description of Proposed Development ("the Development")	Erection of supermarket and associated accesses, car parking, and a recycling facility.	
<b>Parties to this Deed:</b>		
1.	SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL	9-11 Hills Road, Cambridge, CB2 1PB ("the Council")
2.	ALFRED McALPINE DEVELOPMENTS LIMITED	Registered Office: 8 Suffolk Street, London SW1Y 4HG ("the Owner")
3.	ALFRED McALPINE DEVELOPMENTS LIMITED	8 Suffolk Street, London SW1Y 4HG ("McAlpine")
Short Description of Land ("the Site") Land between De La Warr Way and High Street, Cambourne in the County of Cambridge shown edged with a thick black line on the Site Plan Site Plan(s): Attached drawing : RT 85TA-05 Rev E Owner's Title No(s): CB217758		
<b><u>The Schedule</u></b>		
PART 1 - TRAVEL FOR WORK		
1. Employees park only in designated areas		
2. Appoint a staff travel for work Co-ordinator with specific duties		
3. Keep records, report indicators to the Council and review		
4. Continue to endeavour to achieve general obligation of encouraging alternative modes of staff travel than by own car		
PART 2 - PUBLIC USE OF CAR PARK AND MARKET SQUARE		
PART 3 - RESTRICTION ON TYPES OF GOODS OFFERED FOR SALE		
PART 4 - RECYCLING CENTRE FACILITIES		
PART 5 - SIGNAGE		
PART 6 - ARTISTIC CENTREPIECE IN MARKET SQUARE		
<b><u>APPENDIX</u></b>		
N/A		

**THIS DEED OF AGREEMENT** is made on the Date stated in the Annex  
**BETWEEN** the parties shown in the Annex

**RECITALS**

(A) For the purposes of the Act the obligations on the part of the Owner contained in Clause 1 are planning obligations, the land the subject of the obligations is described as "the Site" in the Annex and by reference to the attached Site Plan(s), the Owner is the person entering into the obligations and is the freehold owner of the Site subject to mortgages and leases (if any) referred to in The Appendix and the Council is the Local Planning Authority by whom the obligations are enforceable.

(B) Application for approval of reserved matters has been made to the Council details of which are given in the Annex and the Council is satisfied that the Application is such as may be approved by the Council under the Act, subject to the provisions of this Deed.

**NOW THIS DEED WITNESSES AS FOLLOWS :-**

1.0 **COVENANTS**

The Owner hereby covenants with the Council to observe and perform the obligations set out in the Schedule hereto.

2.0 **DEFINITIONS**

2.1 In this Deed the following expressions shall have the following meanings:-

- (i) "the Act" means the Town and Country Planning Act 1990.
- (ii) "the Application" means the application for approval of reserved matters described in the Annex and includes any amendments made by the Owner and accepted by the Council

- (iii) "the Planning Permission" means planning permission for the Development pursuant to the Application.
- (iv) "the Council", "the Owner", "the Site", "the Site Plan(s)", "McAlpine" and "the Development" have the meanings shown in the Annex.
- (v) "the market square", "the car park" and "the re-cycling area" mean the respective areas referred to in the Schedule and shown marked as such on the Site Plan
- (vi) "employee" for the purposes of this Deed shall mean a person (excluding persons employed in the initial development of the Site) employed for the purpose of the provision of labour or services in connection with any business or activities carried on upon the Site and shall include all full-time and part-time employees, all persons self-employed and employees of independent contractors normally engaged upon the Site and all other persons engaged on the Site for such purpose, whether paid or unpaid and whether upon a temporary or permanent employment or engagement, PROVIDED THAT employees job-sharing shall be assessed on the basis of full-time equivalent if there shall be no significant overlap in relation to hours of employment, but apart from this all part-time employees count separately;
- (vii) "designated areas" means only those areas for use as vehicle parking for employees approved in writing by the Council either upon the approval of reserved matters or thitherto or thereafter
- (viii) "Schedule" shall mean the Schedule hereto

- (ix) "net sales area" means those parts of the supermarket building described in the Planning Permission for retail use but in the absence of any such description, those parts of the supermarket building used for selling and displaying goods and to which members of the public have access but excluding toilets, cafeterias and non-retailing areas of lobbies and passageways
- (x) convenience goods" shall mean the goods defined in categories 1, 2, 3, 4 (newspaper and magazine portions only) and 9.1 of the Data Consultancy Explanatory Volume for Retail Expenditure Estimates for Small Areas as revised 1998 details of which are appended at Part 3 of the Schedule
- (xi) "comparison goods" shall mean the goods defined in categories 4 (books portion only), 5, 6, 7, 8, 9.2, 9.3 and 9.4 of the Data Consultancy Explanatory Volume for Retail Expenditure Estimates for Small Areas as revised 1998 details of which are appended at Part 3 of the Schedule

2.2 Words incorporating the masculine gender shall include the feminine and the neuter.

2.3 Words importing the singular shall include the plural and vice versa.

2.4 Covenants by two or more owners or lessees of the same interest in land in respect of the same obligation shall be deemed to be joint and several respectively; any covenant by any owner and any lessee of the same land in respect of the same obligation shall be deemed to be joint and several.

2.5 References in this Deed to any statutory provision shall include reference to any statutory modification or re-enactment thereof for the time being in force

2.6 The Owner and Council shall include their successors in title, those deriving title under them and their successors in function.

2.7 Where in this Deed any consent or approval is to be given by any party that consent or approval shall not be unreasonably withheld or delayed. The provisions of this clause shall not apply to paragraph 2 of Part 2 insofar as the same requires the consent or approval of McAlpine, or to paragraph 3 of part 6 of the Schedule.

### 3.0 IMPLEMENTATION

3.1 This Agreement is made in pursuance of Section 106 of the 1990 Act and Section 111 of the Local Government Act 1972.

3.2 This Agreement shall be a local land charge and shall be registered as such. The Council shall cancel any such registration when this Deed is abrogated or ceases to have effect.

3.3 This Agreement shall take effect only upon the commencement of development on the Site being the carrying out thereon of any of the material operations described in Section 56(2) and Section 56(4) of the 1990 Act in accordance with any planning permission in relation thereto granted in pursuance of the Application.

3.4 The Owner (including any person deriving title under the Owner as aforesaid) shall not be bound by the planning obligations (and other covenants on the part of the Owner) herein contained in respect of any period during which it (or they) no longer has/have a legal interest in the land but, subject thereto, the obligations and covenants shall be enforceable by the Council against the Owner and any person deriving title from the Owner.

3.5 If the Planning Permission shall at any time be revoked this Deed shall forthwith cease to have effect.

3.6 The provisions contained herein and set out in the Schedule hereto shall remain in full force notwithstanding that similar conditions attached to

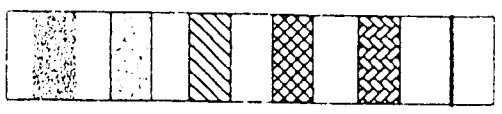
any planning permission relating to the Site shall or may be less onerous in their application or effect.

3.7 The Owner shall pay the Council's reasonable legal costs in connection with the preparation of this Agreement limited to the sum of £1,000.00

**IN WITNESS WHEREOF** the Parties have executed this Agreement as a Deed

1980  
 1981  
 1982  
 1983  
 1984  
 1985

Key

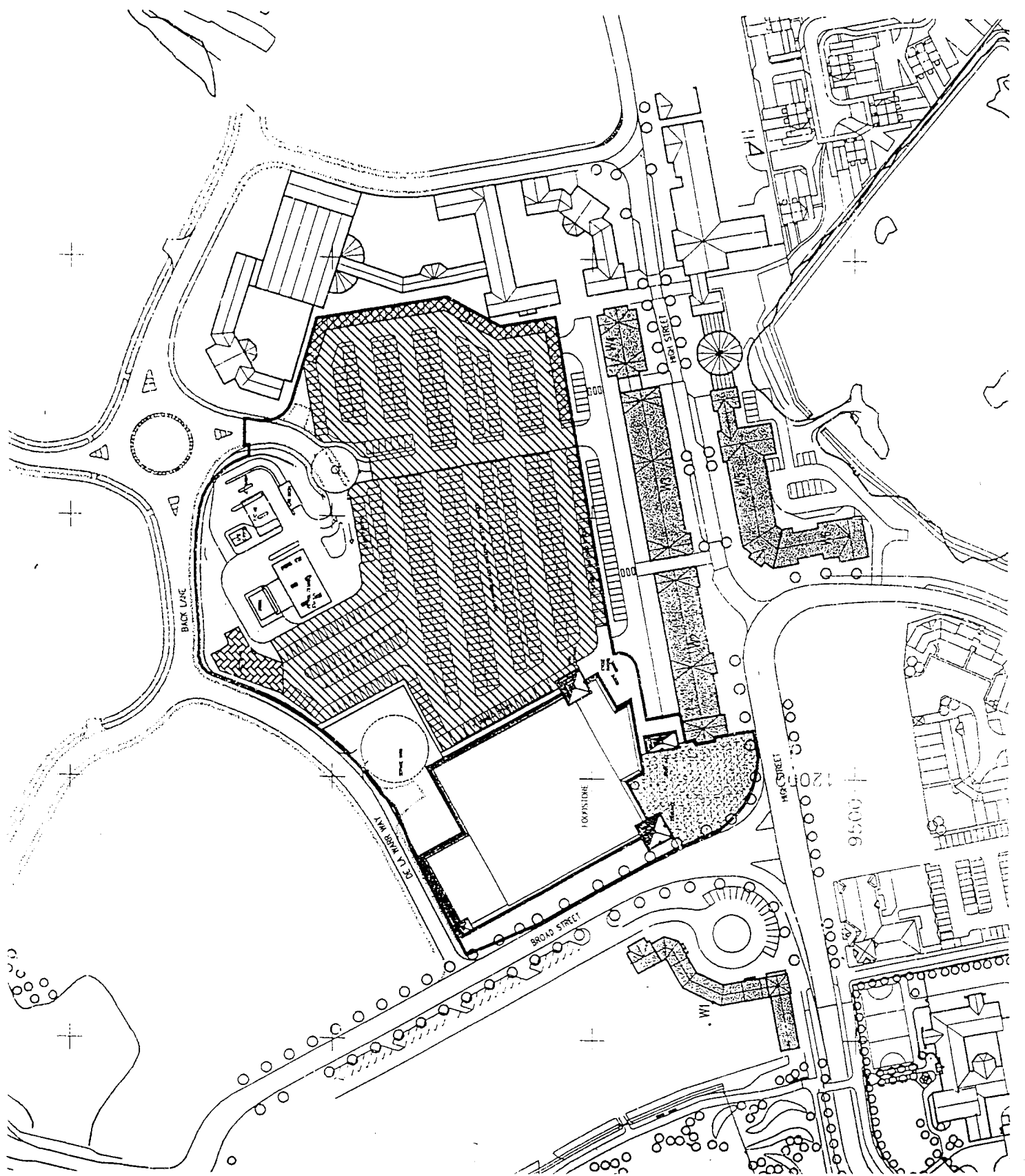


REVISIONS.  
 D. 1.6.01 JCB  
 Addition of conveyancing boundary and car park boundaries.  
 E. 9.8.01 DJJCS  
 Hatch types changed. Retail in 4 lines omitted. Car parking area amended.



**CAMBOURNE**  
 Foodstore  
 Location & Planning  
 application boundary

Scale: 1:2000 Date: 6.8.00  
 Drawn By: DL Checked: Draft  
 Dwg. Nr: 85TA-05 Rev E



## THE SCHEDULE

### PART 1 - TRAVEL FOR WORK

For so long as persons shall be employed on the Site the Owner shall be subject to and comply with the following obligations, which shall not be altered except with the approval in writing of the Council:

1. Not to allow employees who park their vehicles on the Site to do so other than in designated areas and to take such action as shall be necessary to ensure compliance; use reasonable efforts to discourage employees on the Site from driving to work and parking off-site nearby, provided that this shall not oblige the Owner to incur any material expenditure
2. Appoint and thereafter continue to employ or engage or procure the appointment or engagement of a suitable co-ordinator for staff travelling arrangements to work, hereinafter called "the Co-ordinator", (reporting to the Owner's Senior Management and to the occupier) whose key responsibility shall be to implement the general obligation set out in paragraph 4 below ("the general obligation") and monitor its attainment. The main duties of the Co-ordinator shall be as follows:

- to liaise with the employees to explain the general obligation and its benefits; to explain the general obligation to employees
- to use all reasonable endeavours to ensure participation and compliance therewith;
- to set up and maintain a register of employees and monitor their vehicle usage to work;

- to make available relevant general and specific information on alternative forms of travel for work for employees and visitors to the Site;
  - to submit formal annual monitoring reports to the Council in accordance with Paragraph 3.2;
  - to promote so far as practicable, co-operation with other organizations in the area to reduce car driven journeys to work;
  - to act as a point of contact on transport matters at the Site for the Council, the County Council, local Parish Council(s), the wider public and transport operators;
  - to carry out such additional duties as may be determined by the Owner to be appropriate from time to time.
- 3.1 Record and keep up-to-date details of numbers of all employees and their normal modes of travel to work on the Site;
- 3.2 Report to the Council in writing annually with the details (so far as the same can reasonably be ascertained) of these key indicators:
- (a) the number of employees;
  - (b) the proportion of employee-drivers to work;
  - (c) the mode of travel for the remainder of employees;
  - (d) the number of employee parking spaces in designated areas;  
and
  - (e) the number of employee parking spaces normally used.

PROVIDED that such report shall not require the disclosure to the Council of employee's personal data (as defined in the Data Protection Act 1998).

3.3 Review with the Council the pursuit of the objectives of the general obligation after one year from the substantial completion of the Development and in any event every five years from the date hereof (unless otherwise agreed between the Owner and the Council)

4. The general obligation of the Owner shall be to continue to use reasonable endeavours to reduce the proportion of employee driver journeys to work and increase the proportion of alternative modes of travel to work, having regard to national, regional and development plan policies in this context PROVIDED that this shall not oblige the Owner to incur any material expenditure beyond the employment or engagement of the Co-ordinator and the performance of the main duties set out in Paragraph 2 above.

PART 2 – PUBLIC USE OF CAR PARK AND MARKET SQUARE

1. Subject to paragraphs 2 to 3 below the Owner shall allow the public without payment to use on foot and with vehicles the car park and to use on foot the market square PROVIDED that the Owner shall be entitled to reserve the car parking spaces cross-hatched black on the Site Plan (and a like number of car parking spaces in substitution therefore from time to time) to nominated third parties (“the Reserved Spaces”).
  
2. The use of the car park and the market square by the public shall not preclude the right of the Owner,
  - to secure the good management of the same, including safety and the maintenance of public order, to close the car park (or any part) for maintenance purposes or to effect improvements or alternatively to exclude temporarily all or any persons or vehicles or otherwise to make such management or proprietary conditions governing the use thereof as the Owner shall in its absolute discretion think fit, consistent with public use
  
  - to exclude liability to the public for any loss or damage however arising other than by the Owner’s negligence
  
  - subject to the prior consent of the Council to levy a charge for use by members of the public of the car park provided that no charge shall be levied in respect of the Reserved Spaces.

3. The Owner shall use all reasonable endeavours to keep the car park and market square properly repaired and maintained, properly surface water drained, reasonably tidy, reasonably litter-free and weed-free and reasonably lit at night

PART 3 - RESTRICTION ON TYPE OF GOODS OFFERED  
FOR SALE ON THE SITE

- i. Subject to paragraph 2 of this Part 3 the primary use of the supermarket building shall be for the retail sale to members of the public of convenience goods.
  
2. During the period between the opening of the supermarket building (for the sale of goods to members of the public) and the date of first occupation of the final unit comprised within the proposed ground floor retail element of the units shaded grey on the Site Plan (referred to in the key as 'Retail (W1-W6)' and the footprints of which are illustrative only) no more than 464sq m (5,000sq ft) of the net sales area of the supermarket building may be used for the sale to members of the public of comparison goods and of this total no more than 92 sq m (1,000 sq ft) may be used for the sale of goods from any one category falling within the definition of comparison goods. Thereafter this paragraph 2 shall not apply to restrict the proportion of comparison goods offered for sale from the supermarket.
  
3. The Owner may not provide or permit to be provided to visiting members of the public whether within the supermarket building or in the open any of the following services: namely those of a dispensing chemist, dry cleaners, bank and post office.

PART 3  
(continued)

## APPENDIX I: DETAILED EXPENDITURE CATEGORIES

The Data Consultancy consumer retail expenditure estimates for small areas provide details of expenditure, inclusive of VAT and special forms of trading, by 17 detailed goods categories grouped under nine broad headings. Expenditure is aggregated into a total convenience goods category, a total comparison goods category, and an overall total category.

The detailed goods categories are based on the categories used in the ONS Blue Book, with minor modifications to exclude non-retail expenditure such as sales of alcohol and tobacco from restaurants and public houses. A description of each of the detailed categories is given below. The broad categories are simply combinations of the appropriate detailed categories. The definitions of convenience and comparison goods, given below and in Section 2, conform with the definitions in general use by retail planners.

### 1. Food

All food and non-alcoholic beverages bought retail by households for consumption in the household or elsewhere. Allowance is made for the exclusion of food withdrawn by farmers, other commercial food producers and retailers for their own consumption. Personal expenditure on food and drink from catering establishments for consumption on or off the premises is excluded. Thus expenditure at cafes, restaurants, hotels, fish and chip shops, fast food outlets, canteens, office dining rooms, schools and communal establishments are all excluded.

### 2. Alcoholic drink

All alcoholic drink bought by consumers from retail outlets, wine and spirit merchants, and off-licences. Alcoholic drink at public houses, hotels, restaurants, other commercial catering establishments and non-profit making clubs for consumption on the premises is excluded.

### 3. Tobacco

All consumer expenditure on tobacco products, cigarettes, cigars, pipe tobacco etc., made through retail outlets. Tobacco products sold at public houses, hotels and clubs are excluded.

### 4. Books, newspapers and magazines

All consumer retail expenditure on books, newspapers and magazines. All newspaper sales, whether direct from newsagents, street vendors, or home deliveries are included. All periodicals are included, together with other miscellaneous publications such as HMSO papers, and maps. Business purchases of books and journals, and purchases for maintained schools are excluded. Expenditure on books accounts for approximately 31 per cent of this category.



## 5. Clothing and footwear

### 5.1 Footwear

All consumer retail expenditure on footwear including boots, shoes, slippers, etc., but excluding socks and stockings, repairs and repair materials.

### 5.2 Men's and boys' wear

All consumer retail expenditure on garments of all kinds for men and boys including outer clothing, underclothing and hosiery. Expenditure on repairs and alterations are excluded.

### 5.3 Women's, girls' and infants' wear

All consumer retail expenditure on garments of all kinds for women, girls and infants. It also includes dress materials, millinery, gloves, hosiery, knitting wool, haberdashery, etc. Expenditure on repairs and alterations are excluded.

## 6. Furniture, floor coverings and household textiles

### 6.1 Furniture and floor coverings

All consumer retail expenditure on furniture, including mattresses, mirrors, antiques, pictures, works of art and floor coverings. Traditional and self-assembly furniture is included, together with nursery furniture and perambulators. Floor coverings includes carpets, rugs, carpet tiles, vinyl floor coverings, matting, and underlay, etc. In the case of second-hand furniture and antiques only the dealers' margins are included.

### 6.2 Household textiles and soft furnishings

All consumer retail expenditure on household textiles and soft furnishings, comprising soft bedding (blankets, sheets, pillows), cushions, curtains, furnishing fabrics, and household textiles.

## 7. Radio, electrical and other durable goods

### 7.1 Domestic appliances

All consumer retail expenditure on domestic electrical and gas appliances, such as electric and gas fires, electric storage heaters, paraffin heaters, washing machines, cookers, refrigerators, freezers, irons, vacuum cleaners, sewing machines, lawnmowers, and other household appliances. Radios and other audio/visual reproducing equipment are excluded.

### 7.2 Radio, television, musical instruments and photographic equipment

All consumer retail expenditure on radio and television sets, video recorders, record players, tape recorder, stereo and hi-fi equipment, computers, musical instruments and photographic and optical goods. Television and video hire charges are also included, as are video tape hire charges. Television licences, purchases of records and tapes, and photographic processing and printing are excluded.



## 8. Hardware and DIY supplies

### 8.1 China, glass and hardware

All consumer retail expenditure on hardware, ironmongery, china, glassware, cutlery, minor radio and electrical goods, lighting, light bulbs and lamp shades, cycle accessories, cooking utensils, gardening and other tools, dustbins etc. China and glassware form approximately 19 per cent of this category.

### 8.2 DIY and decorators' supplies

All consumer retail expenditure on the purchase of materials for home repairs, maintenance and decorations including paint; wallpaper; timber and hardboard; other materials such as formica, roofing felt, sand, tiles, putty, glues, etc.; tools such as paint-brushes; etc. (but excluding power-tools); and fittings including self assembly kitchen-furniture; power-points, etc. (but excluding fireplaces). The purchase and erection costs of garages, sheds and greenhouses are excluded. The purchase and installation costs of structural space heating appliances, whether gas, oil or coal fired, are excluded. All payments to contractors are excluded.

Other 'DIY products' such as vinyl floor coverings, garden tools, lawn-mowers, power tools, etc., are included elsewhere under the appropriate categories.

## 9. Other goods

### 9.1 Matches, soap and other cleaning materials

Consumer retail expenditure on matches, household soap, soap and detergent powders, and flakes, scourers, polishes, soda, disinfectants, etc. Expenditure on toilet soap is excluded.

### 9.2 Chemists' goods

Chemists' goods comprises consumer retail expenditure on drugs, medicines and medical goods, toilet requisites and toilet preparations, including toilet soap, cosmetics, hair and beauty products. It excludes drugs, etc., supplied under the National Health Service, whether or not these are paid for in part by consumers. Private purchases of spectacles, surgical appliances, etc., are included.

### 9.3 Jewellery, silverware, watches and clocks

All consumer retail expenditure on the purchase of jewellery, silverware, watches, clocks and barometers.

### 9.4 Recreational and other miscellaneous goods

Recreational and other miscellaneous goods includes consumer retail expenditure on gramophone records, audio/visual discs and cassettes (excluding hire); toys and sports goods; developing and printing of film; miscellaneous goods connected with arts, crafts and hobbies; horticultural goods, including flowers, seeds, plants, etc., and miscellaneous garden equipment not specified elsewhere; the purchase and upkeep of domestic pets of all kinds; pet foods; stationery and writing equipment; paper goods; umbrellas and walking sticks; handbags and purses, leather goods and



travel goods; pedal cycles; picture frames, vases and miscellaneous fancy or ornamental articles for personal or domestic use. Motor and motorcycle parts and accessories are excluded. The purchases of caravans, yachts and boats are excluded.

### Convenience and comparison goods categories

The detailed goods categories are aggregated to convenience and comparison goods categories as shown below. The definitions of convenience and comparison goods categories conform with the definitions in general use by retail planners.

#### Convenience goods

1. Food
2. Alcoholic drink
3. Tobacco
4. Books, newspapers and magazines (newspapers and magazines portion only)
- 9.1. Matches, soap and other cleaning materials

#### Comparison goods

4. Books, newspapers and magazines (books portion only)
5. Clothing and footwear
6. Furniture, floor coverings and household textiles
7. Radio, electrical, and other durable goods
8. Hardware and DIY supplies
- 9.2 Chemists' goods
- 9.3 Jewellery, silverware, watches and clocks
- 9.4 Recreational and other miscellaneous goods

Note that the convenience and comparison goods categories are not straight sums of the detailed categories, because the 'Books, newspapers and magazines' category is split between convenience and comparison. Approximately 30 per cent of the 'Books, newspapers and magazines' category is expenditure on books, allocated as comparison goods expenditure, while the remaining 70 per cent expenditure on newspapers and magazines is allocated as convenience goods expenditure.



PART 4 – RE-CYCLING CENTRE FACILITIES

1. The Owner shall permit the Council or its designated contractor(s) to station upon the recycling area or other suitable location or locations on the Site defined by the Owner separate bins for the public deposition and collection of the following types of household waste and, with the Owner's consent, any other types of household waste

*Bottles clear*

*Bottles coloured*

*Plastics*

*Newspaper*

*Other paper and card*

*Cloth*

*Cans*

*Books*

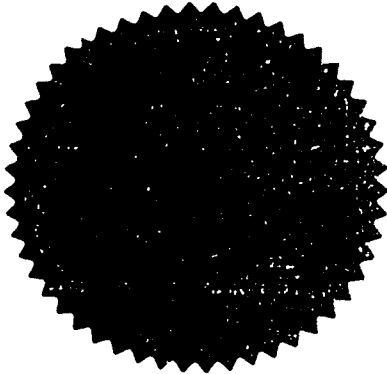
2. The Council shall take reasonable steps – including the provision of appropriate signage – to ensure that the public uses the facilities referred to in paragraph 1 responsibly and the Council shall remove bins that are full and tidy up as often as shall be requisite (or as reasonably required by the Owner) such that the facilities or any individual element thereof is not overflowing at any time and does not comprise a health hazard or a nuisance.

PART 5 – SIGNAGE

1. The Owner shall ensure that all signage at the Site shall comply with the relevant provisions of the Cambourne Design Guide and that signage relevant to re-cycling shall also incorporate the generic re-cycling logo.
2. All such signage shall be subject to the prior written approval of McAlpine.

PART 6 – ARTISTIC CENTERPIECE IN MARKET SQUARE

1. Subject to paragraph 3 below, the Owner shall commission, then (after the final design has not been vetoed and has been approved in writing by McAlpine) erect or permit the erection of a work of art in the form of a sculpture (in any medium) or monument to be sited as a centrepiece within the market square (provided that the Owner shall not be obliged to expend any sum in excess of £25,000.00 in providing such sculpture), and any replacement(s) thereof if it is stolen or damaged beyond repair or renovation. For the avoidance of doubt for the purposes of this paragraph, the costs of commissioning and installation shall not be included in calculating the cost of the centrepiece.
2. The work of art, and any replacement(s), (“the piece”) shall belong to the Owner who shall maintain it and be responsible for its repair, renovation, safety, security, and accompanying interpretive or descriptive material
3. The Owner may commission the piece directly or invite the Council to commission the same at the expense of the Owner. The Owner, the Council and McAlpine may veto the final design but (in respect of the Council and McAlpine) such veto may only be exercised upon the grounds of public decency, scale or height
4. Notwithstanding paragraph 3 the final design of the centrepiece shall in any event require the written approval of McAlpine (not to be unreasonably withheld or delayed)



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

*D. P. Roberts*

Member of the Executive

*Justin [unclear]*

Chief Executive

EXECUTED as a Deed on behalf of )  
**ALFRED McALPINE DEVELOPMENTS** )  
**LIMITED** in accordance with the powers )  
Conferred by a Power of Attorney )  
dated 1<sup>st</sup> March 2001 )

Authorised signatory: *[Signature]*

Authorised signatory: *[Signature]*

Mr Chris Taylor

CJT/RCT  
11/jh/13981

Cambridge City Council  
Planning Department  
100 Brook Hill  
Cambridge CB2 3RQ

Telephone: 01223 443060  
Fax: 01223 443060  
E-mail: [planning@cc.gov.uk](mailto:planning@cc.gov.uk)

23<sup>rd</sup> August 2001

Messrs Laytons  
Solicitors  
DX 2410  
Guildford

Dear Sirs

**CAMBOURNE SUPERMARKET SECTION 106 AGREEMENT**

I am writing to confirm that the completed Agreement contains a plan which is slightly incorrect. The plan shows within the Site the petrol station area which is not in fact the subject of the Application (as defined). Accordingly, the Agreement is abrogated in respect of the petrol station area and relates only to the site the subject of the Application.

I have placed a copy of this letter with the completed Agreement which we hold here. The Local Land Charge in respect of the Agreement will not therefore relate to the petrol station area.

Yours faithfully



Head of Legal Services

*cc. Local Land Charges  
Cambridge Area Team  
Deeds Officer.*