DATED 22nd february 2016

CROWNGOLD PROPERTIES LIMITED

and

CLOSE BROTHERS LIMITED

and

THE LONDON BOROUGH OF HILLINGDON

DEED OF VARIATION AND SUPPLEMENTATION MADE PURSUANT TO SECTIONS 106 AND 106A OF THE TOWN AND COUNTRY PLANNING ACT 1990 RELATING TO THE DEVELOPMENT OF LAND AT

UNION HOUSE, 23 CLAYTON ROAD, HAYES UB3 1AN

PLANNING APPLICATION NUMBER 35250/APP/2014/3506

Attn: Korah Galloway
Planning and Corporate Team
Legal Services
London Borough of Hillingdon
Civic Centre
High Street
Uxbridge
Middlesex UB8 1UW
Ref: 3E/04/KG/7438

THIS DEED OF VARIATION is dated 22nd February 2016

BETWEEN:

(1) **THE LONDON BOROUGH OF HILLINGDON** of the Civic Centre, High Street, Uxbridge, Middlesex, UB8 1UW (**"the Council"**)

(2) **CROWNGOLD PROPERTIES LIMITED** (Company Registration Number. 08914898) a company incorporated in England and Wales whose registered office is situated at New Burlington House, 1075 Finchley Road, London NW11 0PU (**"the Owner"**)

(3) **CLOSE BROTHERS LIMITED** (Company Registration Number. 00195626) a company incorporated in England and Wales whose registered office is situated at 10 Crown Place, London, EC2A 4FT (**"the Mortgagee"**)

BACKGROUND

A The Council is the local planning authority for the purposes of the Act in respect of the Land.

B The Owner has the freehold interest in the Land comprised under Title Number AGL2697 subject to a charge in favour of the Mortgagee.

C The Mortgagee has an interest in the Land by way of a legal charge dated 15 April 2015 and is willing to be party to this Deed.

D On 21 November 2014 the Unilateral Undertaking was entered into by (1) the Owner in favour of (2) the Council which contains planning obligations binding the Land.

E On 21 November 2014 the Council granted the Planning Permission for the Development subject to conditions and the planning obligations contained in the Unilateral Undertaking.

F The Parties have agreed to vary and supplement the terms of the Unilateral Undertaking as set out in this Deed. This Deed is made under sections 106 and 106A of the Act and is supplemental to the Unilateral Undertaking.

IT IS AGREED AS FOLLOWS:-

1. INTERPRETATION AND DEFINITIONS.

1.1. In this Deed, unless the context otherwise requires:

"this Deed"	means this Deed of Variation;
"the Unilateral Undertaking"	means the legal undertaking dated 21 November 2014 made under Section 106 of the Act from (1) the Owner in favour of (2) the Council; and
"Parties"	means the Council, the Owner and the Mortgagee.

1.2 This Deed varies and is supplemental to the Unilateral Undertaking.

1.3 In this Deed, unless the context otherwise requires:

1.3.1 References to clauses paragraphs and schedules are references to those in the Unilateral Undertaking; and

1.3.2 Words and phrases whose meanings are not varied by this Deed have the same meanings as in the Unilateral Undertaking.

1.4 This Deed is made pursuant to sections 106 and 106A of the Act and to the statutory provisions and in consideration of the covenants contained herein and for the avoidance of doubt it is agreed and declared that the said covenants are ones to which section 111 of the Local Government Act 1972, section 16 of the Greater London Council (General Powers) Act 1974, section 106 of the TCPA 1990, Section 1 of the Localism Act 2011 and all other powers so enabling apply.

1.5 This Deed contains planning obligations which are enforceable by the Council and which binds each and every part of the Land.

1.6 The Parties agree that except as varied by this Deed, and to the extent the obligations in the Unilateral Undertaking have not already been satisfied, any remaining and/or on-

going obligations in the Unilateral Undertaking shall remain in full force and effect and shall be binding upon the parties and their respective successors in title and assignees.

1.7 Nothing in this Deed affects the validity or effect of the Unilateral Undertaking or the Council's powers in respect of any subsisting or antecedent breach or omission in relation to the Unilateral Undertaking.

2. VARIATION OF THE UNILATERAL UNDERTAKING

It is hereby agreed between the Parties to this Deed that the Unilateral Undertaking shall be read and construed and shall take effect as varied as follows:

2.1. Clause 1 of the Unilateral Undertaking shall be varied as follows:

2.1.1. definitions of **"Highway Agreement"** and "**Highway Works**" shall be deleted.

2.1.2. the following new definitions shall be inserted:

"Crossover Works": widening the crossover and associated repair and reinstatement works to the area of Highway Land edged red on Plan 2.

"Crossover Works Application": an application to carry out the Crossover Works in the form attached to this Deed at Appendix 1. For the avoidance of doubt the Crossover Works Application shall, if necessary, include details in relation to the diversion and/ or lowering of statutory undertakers plant.

"**Highway Land:** that part of the local highway network maintainable at the public expense which is identified on Plan 2 and Plan 3 as appended to this Deed the Highway Works are proposed to be carried out including all footpaths, street furniture, verges, service strips, service margins, vehicular crossings and road surface water drainage systems (if any).

"Highway Works": together the Crossover Works and the On-Street Parking Works.

"Highway Works Contribution": the cost to the Council of carrying out the Highway Works which sum shall not exceed ten thousand five hundred pounds (£10,500).

"On-Street Parking Works": the removal of the on-street parking edged in blue on Plan 2 attached to this Deed at Appendix 2and relocation of the on-street parking edged in green on Plan 2 to the area edged in blue on Plan 3 attached to this Deed at Appendix 3.

"Traffic Regulation Order Fee" a fee in the sum of two thousand pounds (£2,000) being the fees in connection with any amendments required to existing Traffic Regulation Orders or the promotion of new Traffic Regulation Orders arising as a consequence of the On-Street Parking Works.

"Traffic Regulation Order": any temporary or permanent order required to commence and carry out the On-Street Parking Works pursuant to the Road Traffic Regulation Act 1984 including any amendment required to an existing order.

2.2. The following clause shall be inserted into the Unilateral Undertaking as clause 19:

"19. MORTGAGEES CONSENT

The Mortgagee consents to the Owner entering into this Deed and acknowledges that the Land shall be bound by the terms and obligations contained in this Deed and PROVIDED THAT the Mortgagee shall otherwise have no liability under this Deed unless it takes possession of the Land in which case it too will be bound by the obligations as if it were a person deriving title from the Owner."

2.3. Clause 5 to the Unilateral Undertaking shall be varied to read as follows:

"THE OBLIGATIONS

5.1 The Owner covenants with the Council so as to bind the Land and observe and perform the covenants contained in this Undertaking and Schedule 1.

5.2 The Council covenants with the Owner to observe and perform the covenants contained in this Undertaking and Schedule 1".

2.4. Schedule 1 to the Unilateral Undertaking shall be varied to read as follows:
Paragraphs 1 to 4 of Schedule 1 shall be deleted;

2.5. The following provisions shall be inserted into Schedule 1 to the Unilateral Undertaking (as varied pursuant to clause 2.4 above):

The Owner hereby covenants with the Council as follows:

1. Prior to Occupation of the Development the Owner shall submit in writing the Crossover Application to the Council.

2. Prior to Occupation of the Development the Owner shall pay to the Council the Traffic Regulation Order Fee and the Highway Works Contribution.

3. Not to Occupy the Development or cause or allow or permit to be Occupied any part of the Development before the Crossover Application has been submitted to the Council and the Traffic Regulation Order Fee and the Highway Works Contribution is paid.

4. In the event the actual cost to the Council of carrying out the Highway Works (the Actual Cost) is less than the Highway Works Contribution the Council shall return to the Owner the difference between the Highway Works Contribution and the Actual Cost together with written evidence of the Actual Cost.

The Council hereby covenants with the Owner as follows:

1. Following receipt from the Developer of the Traffic Regulation Order Fee the Council shall, as soon as practicable, use reasonable endeavours to obtain the Traffic Regulation Order to enable the On-Street Parking Works to commence.

2. The Council shall disregard this Deed when considering any objections to any Traffic Regulation Order. If any objections are made, the Council shall have no duty or obligation to the Owner by reason of this Deed or otherwise to make the Traffic Regulation Order other than the duty it would have to all persons interested in the Traffic Regulation Order in its capacity as local highway authority. The Council shall use reasonable endeavours to resolve such objections as soon as reasonably practicable.

3. If there are no objections to any Traffic Regulation Order and the Council resolves to make one or all of the Traffic Regulation Orders, any Traffic Regulation Order shall be made and the statutory formalities completed as soon as reasonably practicable.

4. Subject to confirmation of the Traffic Regulation Order and receipt from the Owner of the Highway Works Contribution the Council shall carry out and complete the On-Street Parking Works as soon as reasonably practicable.

5. Following receipt of the Crossover Works Application and the Highway Works Contribution the Council shall commence the Crossover Works as soon as reasonably practicable.

6. The Council shall use all reasonable endeavours to complete the Crossover Works within 35 days of commencing those works.

7. The Council shall give to the Developer not less than 10 Working Days written notice of the proposed date of commencement of the Highway Works (or any part thereof).

8. The Council shall carry out and complete the Highway Works in a good and workmanlike manner.

3. LEGAL EFFECT

3.1. The Parties agree that on completion of this Deed the Mortgagee shall be party to the Unilateral Undertaking as if they were original covenanting parties.

3.2. In all other respects the Unilateral Undertaking (as varied by this Deed) shall remain in full force and effect.

4. COSTS

4.1 On or before the completion of this Deed the Owner shall pay to the Council the Council's reasonable legal costs in this matter.

IN WITNESS of which this Agreement has been duly executed as a Deed and has been delivered once dated.

THE COMMON SEAL of the
MAYOR AND BURGESSES OF THE
LONDON BOROUGH OF HILLINGDON
was duly affixed to this Agreement
in the presence of:-

421657

MEMBER OF
THE COUNCIL

AUTHORISED OFFICER

Executed as a Deed by)
CROWNGOLD PROPERTIES LIMITED)
in the presence of:-)

DIRECTOR

DIRECTOR/SECRETARY

Executed by **CLOSE BROTHERS LIMITED** as a Deed pursuant to a Power of Attorney dated 16th December 2015 (filed at Land Registry Head Office under reference 115/136/169)

ANNABELLE CHARMAN
.....
Authorised Signatory

Witnessed By
Matthew Vallance

Daniel Joyce
.....
Authorised Signatory

Witnessed By
Matthew Vallance

APPENDIX 1

THE CROSSOVER WORKS APPLICATION

LONDON BOROUGH OF HILLINGDON
ENVIRONMENT & CONSUMER PROTECTION

APPLICATION FOR A HEAVY DUTY VEHICULAR CROSSOVER

including the Provision of Temporary and/or Permanent Heavy Duty Vehicular Crossovers and Associated Highway Reinstatements

APPLICANT –

Full Name: .....

Address: .....

Post Code: ..... Telephone No.: .....

Fax: .....

E-mail: .....

LOCATION OF PROPOSED WORKS –

Street: .....

Property No./Name: .....

Town: ..... Post Code: .....

Reason for Application: .....

Proposed Start Date: . . / . . / . . Expected Finish Date: . . / . . / . .

Approved Town Planning Application Ref: .....

Date of Approval: .....

Approved Drawing No. (Town Planning Approval): .....

Works are required to be carried out by:- (DELETE AS NECESSARY)

(a) Applicants chosen contractor who will carry the full amount of third party liability insurance of £5m and be able to provide two local government references for similar types of work.
(b) London Borough of Hillingdon's civil engineering term contractor.
(c) Either – decision to be made upon receipt of LBH estimate.

DECLARATION BY THE APPLICANT:
I confirm that –

The foregoing details are correct and acknowledge that the works referred to above will be conducted in accordance with the requirements of the 'Heavy Duty Vehicular Crossovers – General Conditions' which I have read.

I have consulted the Planning Department and have been advised that the crossover does/does not* require planning approval. This information has been obtained from ..... (Planning Officer name). If the crossover does require planning approval, this has been obtained prior to making this application.

Signed: ..... Date: .....

Name: .....

Designation: ..... (If a Company or Agent)

State nature of work involved, i.e. the number of permanent and/or temporary crossovers, closing of existing crossovers, etc.

.....

.....

Please enclose the following with this application:- (DELETE AS NECESSARY)

1. Three copies of drawings (GC cl.1.1)

and

2(a) Cheque for £165 as fee for estimate by London Borough of Hillingdon's engineer (GC cl.5.3)

or

2(b) Cheque for £325 as fee for overseeing works by applicants chosen contractor (GC cl.5.5) with...

The names of two referees who will vouch for competence for carrying out similar types of work on the public highway and...

Copies of the intended Contractor's third party liability insurance, for the minimum amount of £5 million and...

A statement of the estimated cost of the work (after this cost has been approved, the applicant shall be required to submit a cheque for this amount, which will be returned following satisfactory completion of the work)

or

4. Cheque for £500 as fee for the London Borough of Hillingdon to organise and supervise the works by LBH contractor (GC cl.5.8) – Note: If an estimate has not already been given, the supervising engineer will assess the value of work and advise the applicant accordingly. This sum will be required to be deposited with the Council prior to the commencement of works (GC cl.5.9).

NOTE: THE COUNCIL RESERVES THE RIGHT TO REFUSE ANY APPLICATION WHERE THIS FORM HAS NOT BEEN COMPLETED IN FULL, OR WHERE THE APPLICANT HAS NOT PROVIDED THE REQUIRED INFORMATION IN ACCORDANCE WITH THE GENERAL CONDITIONS

Please return form to:

The Engineering Manager
Street Scene Maintenance Section
Environment & Consumer Protection
Civic Centre, 4W/07
High Street
Uxbridge Middlesex UB8 1UW

Reference No. hdx. _____

ENVIRONMENT AND CONSUMER PROTECTION

STREET SCENE MAINTENANCE SECTION

HEAVY DUTY VEHICULAR CROSSOVERS - GENERAL CONDITIONS

1 Drawings

1.1 The proposed vehicular crossover shall be drawn to a minimum scale of 1:200. A site location plan shall also be shown, scale 1/1250.

1.2 All setting out points shall be indicated on the plan, i.e. radius points, tangent points etc.

1.3 All existing highway features shall be shown, e.g. trees, lamp columns, street furniture, gullies, manholes, boxes and Statutory Undertakers apparatus.

2 Horizontal Alignment

2.1 Where applicable, the horizontal alignment of the crossover shall be in accordance with the relevant planning approval. If the crossover does not form part of a planning application then the horizontal alignment must be approved by the Councils Traffic Services Division prior to this application.

3 Vertical Alignment

3.1 The vertical alignment shall be designed to prevent surface water from the site being discharged on to the public highway. If this is not possible then the surface water shall be collected via road gullies. A minimum crossfall of 1 in 40 shall be provided from the limit of the public highway (rear of adjacent footpath) to the carriageway channel.

4 Construction Details

4.1 The crossover shall be either a concrete or bituminous (flexible) construction and in accordance with the Councils standard specification. A line of granite setts shall be provided at the rear of the crossover on the line of demarcation between the public highway and privately owned land.

4.2 Ancillary works shall include the provision of ramped and dropped kerbs either side of the crossover to facilitate pedestrian access, as well as alteration works to the adjacent public footpath where necessary and the reinstatement of any former, redundant crossovers to public footpath in materials to match existing.

5 Procedure

5.1 Construction of the crossover can either be carried out by the applicants chosen contractor (5.4 - 5.7) or the Councils appointed term contractor (5.8 & 5.9).

5.2 The Council will provide an estimate using term contractors rates. Included will be the cost of moving lamp columns, street furniture and the removal of street trees where necessary. If the applicant chooses to use his own contractor, the removal or replacement

of these items shall again be arranged by the Council and the costs will be charged to the applicant. If any street tree or landscaped area is lost as a result of the works, replanting will be carried out in a suitable location, by the Councils contractors, and the costs again charged to the applicant.

5.3 There will be a fee for providing this estimate which will be £165. This will apply for a permanent or a temporary crossover. A cheque for this amount must be deposited with the Council before work is started on the estimate. Allowance of approximately 20 working days must be made from the time of issuing the deposit to the completion of the estimate.

Applicants Chosen Contractor

5.4 External contractors must have third party liability insurance for the minimum amount of £5m and be able to provide two local government references for similar types of work.

5.5 The work will be overseen by a representative of the Councils Engineering Consultancy and there will be a fee of £325 which will be for inspection of the contractors work on site.

5.6 Applicants will be required to deposit with the Council a sum of money, equal to the estimated cost of the works, to cover any costs incurred as a result of their contractors operations. This sum, or any balance, will be refunded upon satisfactory completion. The applicant will be required to produce evidence of the estimated cost of the crossover.

5.7 The work will be subject to a two years' maintenance period. Thereafter, all maintenance will be the responsibility of the Council.

Council Contractors

5.8 There will be a fee of £500 for the Council to arrange and supervise the works, for both permanent and temporary crossovers. Any other costs incurred by the Council will be charged as necessary.

5.9 The applicant will be required to deposit with the Council the full amount of the estimate and fees prior to the works. Upon completion, applicants will be charged the actual costs incurred and a refund, or additional charge arising from any extra or unforeseen works not included in the estimate, will be made as appropriate.

6 Statutory Undertakers

6.1 It is the responsibility of the applicant to write to all of the Statutory Undertakers, notifying them of the proposals and the depth of excavation which will be approximately 500 mm below the level of the existing footpath.

6.2 The applicant shall arrange for the lowering of any mains or services and the moving of any cabinets, telegraph poles etc., prior to the main construction works.

6.3 Copies of written confirmation of clearance from all Statutory Undertakers shall be sent to the Council before works commence on site.

7 Temporary Crossovers

7.1 Temporary crossovers, which may be provided for construction traffic, may be either constructed by the applicants chosen contractor or the Councils appointed term contractor.

7.2 If a temporary crossover is to be situated in the location of the proposed heavy duty crossover, then it will be possible to construct the crossover to base course level, which can then be used as the temporary crossover. The wearing course and kerbs can then be provided at a later date, nearer the time of completion.

7.3 If a temporary crossover is to be situated away from the position of any proposed heavy duty vehicular crossover, the applicant will be required to deposit with the Council a sum of money to cover the cost of providing the crossover and reinstatement back to footpath upon completion.

7.4 Conditions 5.1 to 5.9 will also apply to temporary crossovers.

8 General

8.1 Applications for heavy duty crossovers should be by completing the form 'Application for a Heavy Duty Vehicular Crossover'. The application should be sent to :-

The Engineering Manager – Highways Maintenance
Environment & Consumer Protection
Civic Centre, 4W/07
Uxbridge
Middlesex UB8 1UW

8.2 The preparation of estimates, consultation and supervision shall be carried out by :-

Implementation Projects Section
Civic Centre, 4W/06
Uxbridge
Middlesex, UB8 1UW

8.3 All payments shall be made in the form of a cheque made payable to the "London Borough of Hillingdon", and sent with the application directly to :-

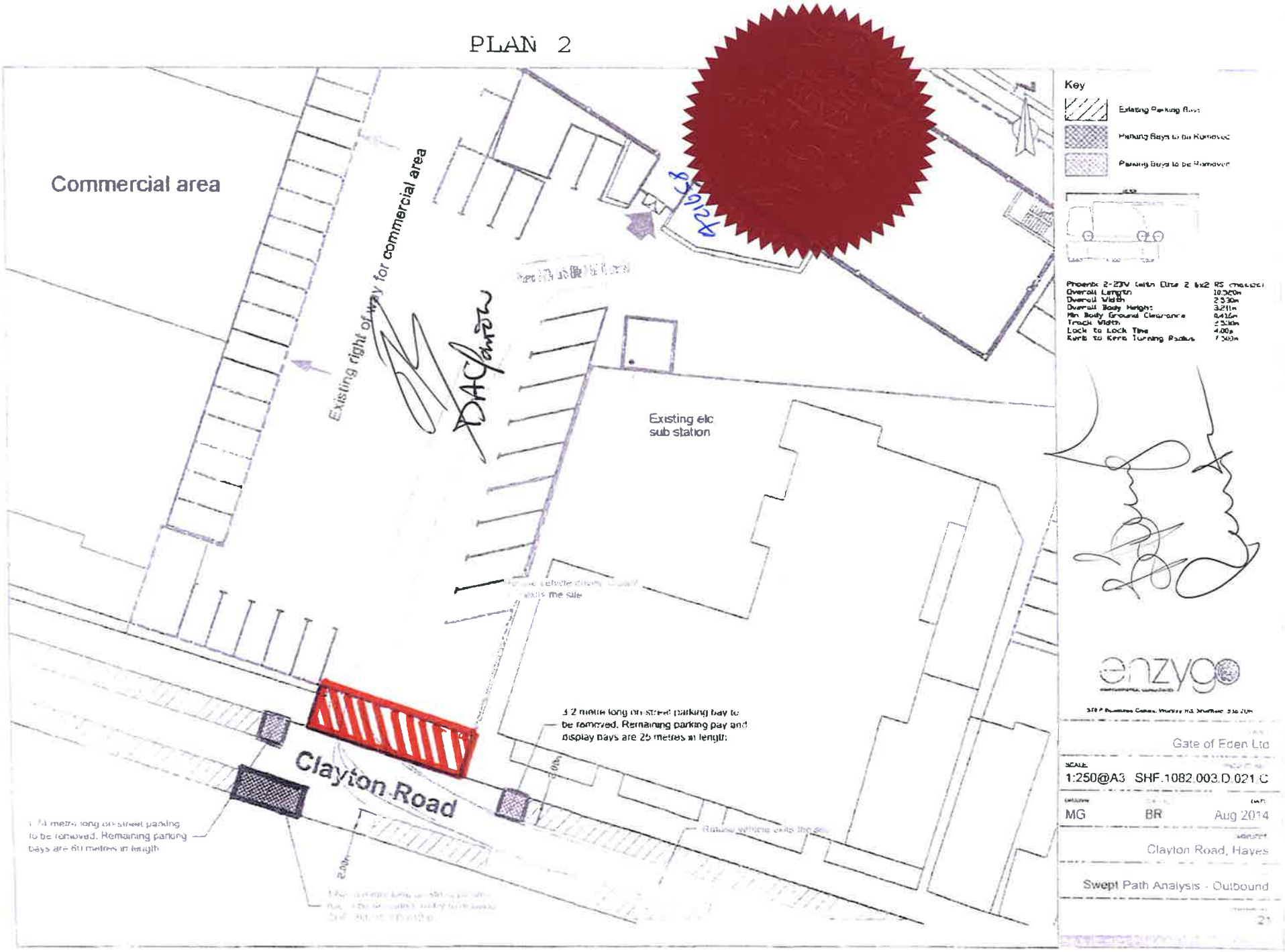
The Engineering Manager – Street Scene Maintenance
Environment & Consumer Protection
Civic Centre, 4W/07
Uxbridge
Middlesex UB8 1UW

8.4 It is essential that agreement is reached between the developer and the Highway Authority, in this case the London Borough of Hillingdon, as to the condition of the public highway, before any works commence on site either on or off the public highway. The developer or the developer's representative shall contact the Highways Maintenance Section, tel. (01895) 277542 and arrange a site meeting with a highways inspector, where the condition of the public highway fronting the site shall be agreed and any defects recorded. During the works, the developer will be held responsible for the cost of any subsequent damage to the public highway as a result of site operations.

APPENDIX 2

PLAN 2

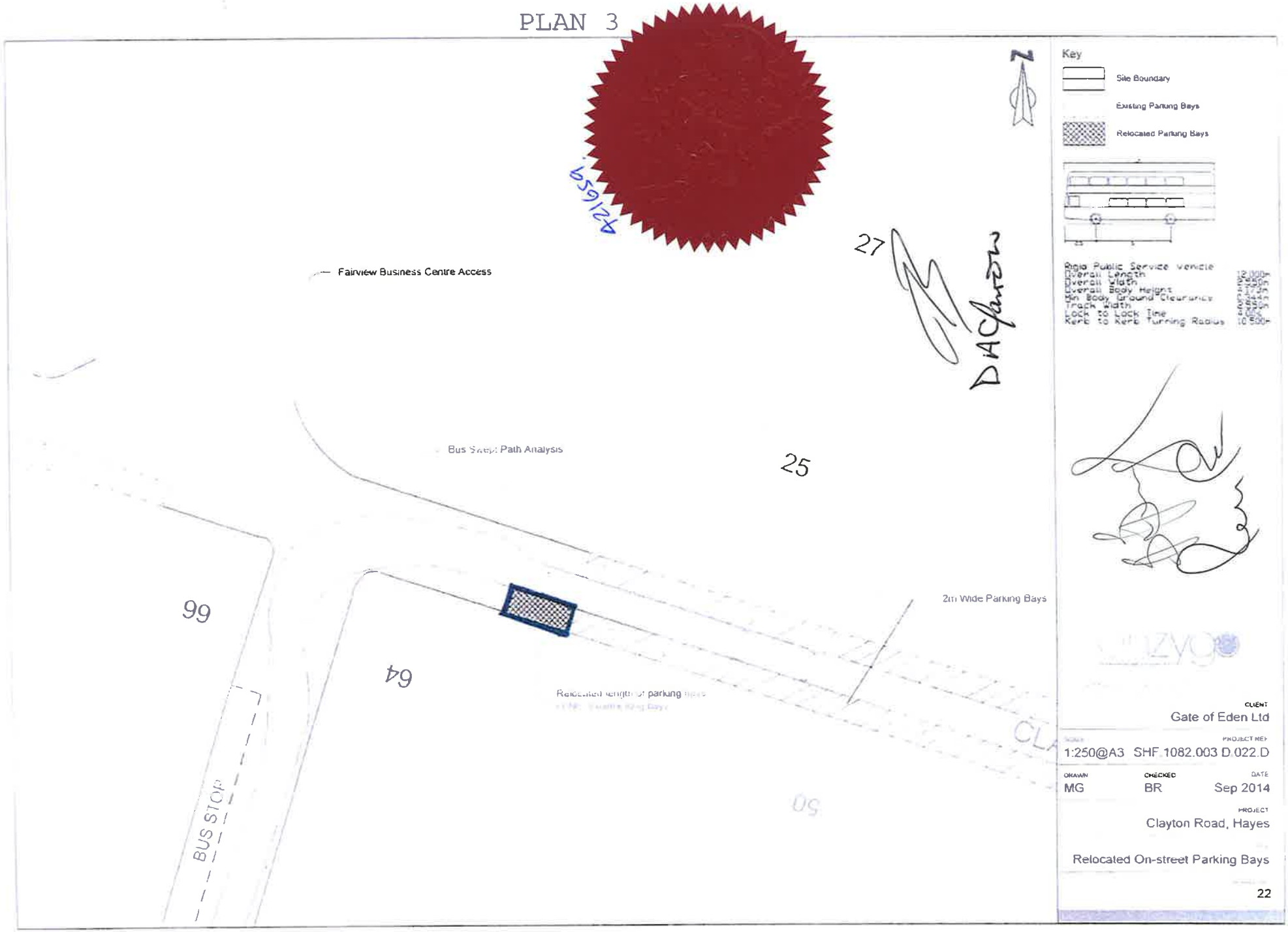
PLAN 2


Commercial area
Existing right of way for commercial area
Existing elc sub station
Clayton Road
12 metre long on-street parking bay to be removed. Remaining parking pay and display bays are 25 metres in length.
Key
Gate of Eden Ltd
1:250@A3 SHF.1082.003.D.021.C
MG
BR
Aug 2014
Clayton Road, Hayes
Swept Path Analysis - Outbound

APPENDIX 3

PLAN 3

PLAN 3


Key
Site Boundary
Existing Parking Bays
Relocated Parking Bays
Rigid Public Service Vehicle
Overall Length
Overall Width
Overall Body Height
Min Body Ground Clearance
Track Width
Lock to Lock Time
Kerb to Kerb Turning Radius
Fairview Business Centre Access
Bus Swept Path Analysis
27
25
99
64
BUS STOP
2m Wide Parking Bays
CLIENT
Gate of Eden Ltd
1:250@A3
PROJECT REF
SHF.1082.003 D.022.D
DRAWN
MG
CHECKED
BR
DATE
Sep 2014
PROJECT
Clayton Road, Hayes
Relocated On-street Parking Bays
22