

DATED

6th September

2018

THE COUNCIL OF THE BOROUGH OF SOUTH TYNESIDE

AND

ALDI STORES LIMITED

AGREEMENT

pursuant to Sections 38 and 278 of the Highways Act 1980,
Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 and
Section 111 of the Local Government Act 1972 relating to the construction and
adoption of roads and works on an existing highway at Glen Street, Hebburn

MIKE HARDING
Head of Legal Services
Town Hall and Civic Offices
South Shields

Ref: BB/15471

THIS AGREEMENT is made on *6th September* 2018

BETWEEN

- 1) **THE COUNCIL OF THE BOROUGH OF SOUTH TYNESIDE** of Town Hall and Civic Offices, Westoe Road, South Shields NE33 2RL ("the Council")
- 2) **ALDI STORES LIMITED** (company registration number 02321869) whose registered office is Holly Lane, Atherstone, Warwickshire, CV9 2SQ ("the Developer")

WHEREAS

- 1) The Council is the highway authority for the area in which the Development is situated.
- 2) The Developer by way of a transfer dated 6 April 2018 acquired from the Council the freehold interest in land at Glen Street Hebburn for the erection of a food store and associated works to be carried out under planning permission ST/0859/15/FUL, including the Red Land. The Developer's interest in the Red Land is free from any charge or encumbrance that would prevent it from entering into this Agreement.
- 3) The Developer has agreed to carry out the Works in accordance with the Plan and the Specifications.
- 4) The Developer has agreed that the provisions of Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 shall apply to those covenants contained in this Agreement so far as they relate to the carrying out of any works, or the doing of any other thing, on or in relation to the Red Land.
- 5) The Developer has requested that when the Works have been executed and maintained in accordance with the provisions of this Agreement the Council shall take over the maintenance of the Roads as highway maintainable at public expense which the Council has agreed to do upon the terms and conditions contained in this Agreement.

NOW in pursuance of Sections 38 and 278 of the Highways Act 1980 (and Section 305 shall apply to any expenses recoverable by the Council), Section 111 of the Local Government Act 1972, Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 and all other powers enabling the Council

1. DEFINITIONS

In this Agreement:

- 1.1. 'Event of Default' means any of the circumstances in clauses 16.1.1 to 16.1.6
- 1.2. 'the Existing Roads' means the existing highways maintainable at public expense shown on the Plan coloured brown;

- 1.3. 'the Final Certificate' means the certificate issued under clause 14 of this Agreement;
- 1.4. 'the Maintenance Period' means the period of 12 months;
- 1.5. 'the Part 1 Works' means the Section 278 Works and those parts of the Section 38 Works set out in Part 1 of Schedule 1;
- 1.6. 'Part 1 Certificate' means the Certificate to be issued under clause 10 on satisfactory completion of the Part 1 Works;
- 1.7. 'the Part 2 Works' means those parts of the Section 38 Works set out in Part 2 of Schedule 1;
- 1.8. 'Part 2 Certificate' means the Certificate to be issued under clause 12.1 on satisfactory completion of the Part 2 Works;
- 1.9. 'the Plan' means the drawing number 13675-3E-00-XX-DR-C-5000 revision T3 annexed to this Agreement which has been approved by the Council;
- 1.10. 'the Proper Officer' means the Council's highway engineer or other officer for the time being acting through its Corporate Director, Economic Regeneration;
- 1.11. 'the Red Land' the freehold land coloured red on the Plan being part of the land transferred by way of a transfer dated 6 April 2018 between (1) the Council of the Borough of South Tyneside and (2) Aldi Stores Limited;
- 1.12. 'the Roads' means the road or roads to be constructed on the Red Land by the Developer in connection with the Works including all carriageways, footways, footpaths, on street parking bays, road islands, road verges, service strips, street lighting, traffic signal equipment, soft landscaping works, street furniture, vehicular crossings road surface water drainage system and any off site highway drainage shown on the Plan and all other things ancillary thereto;
- 1.13. 'the Section 278 Works' means the improvements, alterations and additions to the Existing Roads as identified on the Plan including:
 - 1.13.1. creation of enlarged junction access at Glen Street, Hebburn;
 - 1.13.2. installation of new gullies within access road to the rear (the former Kensington Court access);
 - 1.13.3. the provision of such traffic signs road markings and street furniture as the Proper Officer may direct; and
 - 1.13.4. the provision of any necessary alteration to the apparatus necessitated by the Service Undertakers.
- 1.14. 'the Section 38 Works' means the works specified in Schedule 1 for the making up of the Roads;

- 1.15. 'the Specifications' means in relation to the Works or any part of them the specifications set out in Schedule 3 and engineering drawing numbered 13675-3E-00-XX-DR-C-5001 Revision P1 a copy of which has been deposited with the Council;
- 1.16. 'Service Undertaker' means any authorised or licensed person or body providing or supplying gas electricity water telecommunications or sewerage facilities or services;
- 1.17. 'the Works' means the Section 38 Works and the Section 278 Works

2. INTERPRETATION

In this Agreement where the context so admits:

- 2.1. the expressions "the Council", and "the Developer" shall include their respective successors in title or assigns;
- 2.2. words importing one gender shall be construed as importing any other gender;
- 2.3. words importing the singular shall be construed as importing the plural and vice versa;
- 2.4. words importing persons shall be construed as importing a corporate body or a partnership and vice versa;
- 2.5. where any party comprises more than one person the obligations and liabilities of that party under this agreement shall be joint and several obligations and liabilities of those persons;
- 2.6. the clause headings do not form part of this Agreement and shall not be taken into account in its construction or interpretation;
- 2.7. reference to any recital, clause, sub-clause or schedule without further designation is a reference to the recital, clause, sub-clause or schedule of this Agreement so numbered; and
- 2.8. reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended re-enacted or consolidated and all statutory instruments or orders made pursuant to it.

3. SECTION 38 WORKS

The Developer shall:

- 3.1. before commencing the Section 38 Works give notice in writing to the Proper Officer of its intention to do so;
- 3.2. at its own expense carry out and complete the Section 38 Works in accordance in all respects with the Plan and the Specifications to the satisfaction of the Proper Officer;
- 3.3. ensure that where the Roads abut or join an existing highway the bellmouth joining the Roads to that highway is constructed at the expense of the Developer to the satisfaction of the Proper Officer; and

- 3.4. complete the Section 38 Works as soon as is practicable and in any case no later than the date that the Development is first brought into use.

4. SECTION 278 WORKS

- 4.1. The Developer shall:

- 4.1.1. give the Council at least one month's written notice of the Developer's intention to commence the Section 278 Works on behalf of the Council and thereafter diligently proceed with the Section 278 Works at no cost to the Council in accordance in all respects with the Plan the Specifications and the requirements of Schedule 2 and without prejudice to the foregoing to keep to a minimum the period of occupation of the public highway so as to ensure the safety of traffic and pedestrians and the minimum disruption to users of and traffic flow on the public highway;
- 4.1.2. before commencing the Section 278 Works and at no expense to the Council obtain such consents licences and permissions as may be required for the purposes of carrying out the Section 278 Works and comply with the same and keep the Council indemnified from and against all liabilities costs claims actions demands or expenses which may arise from the Developer's failure to obtain or to comply with such consents licences or permissions; and
- 4.1.3. complete the Section 278 Works as soon as is practicable and in any case not later than the date that the Development is first brought into use.

- 4.2. The Council hereby licenses the Developer acting through its employees contractors or agents (with or without workmen plant and machinery) to enter upon the public highway and any adjoining land of the Council as is reasonably necessary so that the Developer is able to carry out and maintain the Section 278 Works as required by the terms of this Agreement.

5. STANDARD OF WORKS AND APPROVED MATERIALS

- 5.1. The Developer shall execute the Works and carry out all subsequent maintenance as required by this Agreement with due diligence and with all reasonable care and skill.
- 5.2. No materials shall be used by the Developer unless they comply with the Specifications or are approved by the Proper Officer.

6. ACCESS TO WORKS AND REMEDIAL ACTION

The Developer shall:

- 6.1. during the progress of the Works and until the issue of the Final Certificate give to the Proper Officer and any person or persons duly authorised by him at all reasonable times free access to any part of the Works;

- 6.2. permit him or them to inspect the Works and all materials used or intended to be used in the Works;
- 6.3. give effect to any requirements made or instructions given by the Proper Officer or any person duly authorised by him including the removal of specimens for analysis at the sole expense of the Developer and at a testing laboratory approved by the Proper Officer, for securing that the Works conform to the Plan and Specifications and both are executed to the satisfaction of the Proper Officer; and
- 6.4. if so required remove any work or materials which in the opinion of the Proper Officer is or are badly or improperly carried out or defective or not in accordance with the Specifications and at the Developer's own expense re-execute any such work and substitute proper and suitable materials to the satisfaction of the Proper Officer.

7. COSTS

- 7.1. The Developer shall pay to the Council:
 - 7.1.1. on the date of this Agreement £2,000.00 (two thousand pounds) representing the expense to be incurred by the Council in supervising and inspecting the construction of the Works;
 - 7.1.2. on the date of this Agreement £830.00 (eight hundred and thirty pounds) towards the Council's legal fees incurred in connection with this Agreement;
 - 7.1.3. any reasonable and proper costs (including legal and administrative process) incurred by the Council in making and implementing any traffic regulation order(s) (as defined in the Road Traffic Regulation Act 1984 and any other statute) which the Proper Officer deems necessary because of the Works and whether made or implemented before during or after completion of the Works; and
 - 7.1.4. within 14 days of a written demand from the Council any other reasonable and proper costs incurred by the Council in connection with the construction of the Works or their maintenance under the terms of this Agreement.
- 7.2. Receipt by the Council of sums due under clause 7.1 shall not create any contractual relationship between the Council and the Developer, nor absolve the Developer from any liability or obligation imposed upon them by the terms of this Agreement or by statute or at common law and the Council will not be liable for any loss, damage or injury which the Developer may sustain by reason of insufficient or faulty inspection of the Works by the Council.

8. DECLARATION

The Developer declares and warrants to the Council that it has and will maintain throughout the duration of this Agreement full right and liberty and consent to carry out such works as may be deemed by the Council to be necessary to connect the Roads to a vehicular highway or highways that is or are or that will be maintainable at the public expense.

9. SERVICE UNDERTAKERS

- 9.1. The Developer shall not at any time permit any Service Undertaker or any other person to erect overhead services or lay mains cables or other apparatus in or under the Roads or grant any other wayleave easement or right which could not be exercised or enjoyed without the consent of the Council if the Section 38 Works were maintainable at the public expense without the prior consent in writing of the Proper Officer.
- 9.2. This Agreement does not authorise interference with Service Undertakers' apparatus or works in on or under the Existing Roads without their consent.
- 9.3. The Developer shall pay all charges that may be levied on the Council or the Developer by any Service Undertaker or any other person in respect of removal, protection or alteration of any of their apparatus necessitated by the Works.
- 9.4. The Developer shall on completion of the Works provide the Council with a plan showing the positions, size and depth of all pipes, cables, sewers or other apparatus under the Roads.

10.PART 1 CERTIFICATE

On completion of the Part 1 Works to the satisfaction of the Proper Officer in all respects the Proper Officer shall issue the Part 1 Certificate to the Developer.

11.PART 2 CERTIFICATE AND DEDICATION

- 11.1. On completion of the Part 2 Works to the satisfaction of the Proper Officer in all respects in accordance with this Agreement the Proper Officer shall if any sewer constructed under the Roads under an agreement under Section 104 of the Water Industry Act 1991 has been certified as being or having been on maintenance issue the Part 2 Certificate to the Developer.
- 11.2. From the date of the issue of the Part 2 Certificate the Maintenance Period shall begin to run and the Developer agrees and declares that the Roads shall become highway or highways open for use by the public at large PROVIDED THAT:
 - 11.2.1. the said highway or highways shall not be regarded as being highways maintainable at the public expense; and
 - 11.2.2. the Developer shall remain the street manager for the purposes of Section 49(4) of the New Roads and Street Works Act 1991 until the issue of the Final Certificate.

12.MAINTENANCE PERIOD

During the Maintenance Period:

- 12.1. the Developer shall at its own expense undertake any repair or reconstruction of and correct all defects and imperfections to the Works and any other faults required to be corrected however caused including those:

- 12.1.1. to the road surface water system;
 - 12.1.2. caused by any connection to equipment or apparatus of any Service Undertaker in upon or under an existing highway or highways; and
 - 12.1.3. which are notified in writing to the Developer by the Proper Officer; and
- 12.2. the Developer shall at his own expense maintain the Works to enable safe use by vehicles and pedestrians to the satisfaction of the Proper Officer including the maintenance of all grassed and planted areas the removal of all abandoned vehicles rubbish or other unauthorised materials as may be necessary to facilitate use by vehicles pedestrians and other users and the carrying out of routine maintenance such as sweeping gully emptying and snow clearance and undertake routine maintenance of the Street Lighting and any illuminated traffic signs.

13.FINAL CERTIFICATE

If at the expiration of the Maintenance Period the Proper Officer is satisfied that:

- 13.1. the Works have been properly maintained and are not then subject to any defects;
- 13.2. the Developer has carried out any necessary reinstatement or other works have been completed to the satisfaction in all respects of the Proper Officer;
- 13.3. the Developer has fulfilled its obligations in respect of any sewer adoption or diversion agreement which is required to be entered into in consequence of the Development;
- 13.4. the sewers or other works which are the subject of agreement referred to in clause 13.3 have vested in the relevant sewerage undertaking supplier, and
- 13.5. all other obligations under this Agreement have been performed,

he shall issue the Final Certificate to the Developer.

14.ISSUE OF CERTIFICATES FOR PART

- 14.1. Notwithstanding the provisions of this Agreement, the Proper Officer may in his absolute discretion issue a Part 1 Certificate, Part 2 Certificate or Final Certificate in respect of such part of the Roads as are from time to time constructed and maintained in accordance with this Agreement as if the said part of the Roads were the subject of a separate Agreement under which the terms of this Agreement applied to the said part separately from the remainder of the Roads but without prejudice to the application of this Agreement to the remainder of the Roads.
- 14.2. Where at the expiration of the Maintenance Period in relation to any part of the Roads where the Proper Officer has exercised his discretion under Clause 14.1, in respect of such part of those Roads that have not been connected with the existing public highway system, or have

not been completed, maintained or repaired to the satisfaction of the Proper Officer in accordance with this Agreement, the Maintenance Period shall be extended until such time as such connection has been made or the said part of the Works have been completed, maintained or repaired to the satisfaction of the Proper Officer, and the issue of a Final Certificate shall be deferred until that time.

15.ADOPTION

Upon the issue of the Final Certificate the Roads shall become a highway or highways maintainable at public expense.

16.DEFAULT

16.1. If the Developer:

- 16.1.1. fails to perform or observe any of the conditions covenants agreements or obligations on its part contained in this Agreement or described or referred to on the Plan or the Specifications; or
- 16.1.2. fails to proceed with the Works to the satisfaction of the Proper Officer; or
- 16.1.3. fails to complete the Works within the time limits set out in this Agreement; or
- 16.1.4. being a company, is wound up either voluntarily (except for the purpose of reconstruction or amalgamation) or compulsorily, or being an individual becomes bankrupt, or in either case enters into composition with its or his creditors, or
- 16.1.5. becomes subject to any procedure for the taking of control of its or his goods by another or suffers execution to be levied against its or his goods, or
- 16.1.6. has an administrative receiver or receiver appointed over the whole or part of its assets or suffers the appointment of an administrator,

then without prejudice to the other rights remedies and powers of Council whether by reason of this Agreement or by Statute:

- 16.1.7. the Council may by notice in writing to the Developer determine this Agreement (except for clauses 17 and 18)
- 16.1.8. whether or not the Agreement is determined under the sub-clause 16.1.7, the Council may (after giving not less than 28 days notice in writing to the Developer) enter and complete the Works or such part or parts thereof as the Council may at its absolute discretion think fit and in such manner as the Council in its absolute discretion thinks fit and the reasonable and proper cost thereof together with the reasonable and proper cost of maintaining the Works prior to their adoption as certified by the Proper Officer shall be a debt due to the Council from the Developer.

17. BOND

17.1. The Developer has agreed to provide security for the due performance of its obligations contained in this Agreement by depositing monies with the Council in the terms set out in clause 17.2.

17.2. The Developer has agreed to indemnify the Council in respect of any expenditure up to but not exceeding £5,000.00 (five thousand ~~hundred~~ pounds) (the "**Bond Sum**") which the Council may incur in accordance with this Agreement whether or not this Agreement has been determined or disclaimed and for these purposes the Developer shall deposit with the Council upon the completion of this Agreement the Bond Sum which sum shall be held in the Council's General Fund Account and may be used by the Council to indemnify itself as aforesaid if an Event of Default occurs or in respect of any other breach of the Agreement the amount of such expenditure being that certified by the Proper Officer whose certificate shall be final and 75% of the said sum deposited with the Council and not used pursuant to this Clause shall be returned to the Developer upon the issue of the Park 2 Certificate. The balance of the Bond Sum shall be returned to the Developer (together with interest thereon from the date of deposit calculated at the rate fixed by the Treasury for the time being under the National Loans Act 1968) when the Works have been fully completed in accordance with this Agreement.

17.3. For the avoidance of doubt, if an Event of Default occurs the Council shall be entitled in its absolute discretion to decide whether to exercise its rights under Clause 17.2 and any use of any part of the monies deposited pursuant to Clause 17.2 shall be without prejudice to the right of the Council to use any further part of the monies deposited in accordance with Clause 17.2 against further expenditure incurred by the Council until all of the obligations of the Developer under the Agreement have been satisfied in full.

18. FURTHER SURETY

If at any time after 24 months from the date of this Agreement any part or parts of the Works have not been adopted in accordance with Clause 15 the Council may (but not more frequently than once every two years) review the amount then secured under this Agreement and if in the Council's absolute discretion it considers it desirable to do so the Developer shall on the written request of the Council enter into a further bond in favour of the Council with such surety as is acceptable to the Council in such sum as the Proper Officer thinks fit having regard to the amount of the Works outstanding to guarantee further the terms and conditions contained in this Agreement.

19. INDEMNITY

19.1. The Developer hereby indemnifies the Council in respect of all costs, charges, actions, claims, demands, expenses and proceedings arising or in connection with or incidental to the carrying out of the Works (including claims relating to infringement or destruction of any right, easement or privilege and claims under the Land Compensation Act 1973) or anything done or omitted to be done before issue of the Final Certificate other than those arising out of or in consequence of any negligent act, default or omission on the part of the Council.

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- 19.2. In respect of the Developer's indemnity set out in clause 19.1 the County Council shall:
- 19.2.1. notify the Developer upon receipt of any cost claim demand or liability in respect of which it intends to make a claim on the Developer under the clause
 - 19.2.2. keep the Developer informed as to the progress of any such claim demand or liability

20.INSURANCE

- 20.1. The Developer shall before the Works are commenced at its own expense effect a suitable policy of insurance against:
- 20.1.1. any liability, costs, claims or proceedings in respect of personal injury to or the death of any person (including workmen) arising out of, in the course of or caused by the execution of the Works (save where due to the negligent act, default or omission of the Council); and
 - 20.1.2. any liability, costs, claims or proceedings for injury or damage to any real or personal property of the Council or any person arising out of, in the course of or caused by the execution of the Works (save where due to the negligent act, default or omission of the Council).
- 20.2. The Council may at any time before the issue of the Final Certificate require the Developer to produce within seven days of a request in writing a copy of the insurance policy referred to in Clause 20.1 together with a receipt for the current premium.
- 20.3. If the Developer at any time fails to comply with their obligations in Clause 20.1, or fails to pay all premiums in respect of such insurance, the Council may insure against any risk in respect of which the default has occurred, or pay such premiums, and recover the reasonable and proper cost of doing so from the Developer.

21.SERVICE OF NOTICES

All notices to be given under this Agreement shall be:

- 21.1. in writing,
- 21.2. delivered personally or sent by pre-paid recorded delivery post addressed to the party to be served at the address set out in this Agreement (and in the case of the Council addressed for the attention of the Head of Legal Services) or such other address as may from time to time be notified for the purpose, by notice in writing, and
- 21.3. deemed to have been served in the case of a notice delivered personally at the time of delivery or in the case of a notice sent by pre-paid recorded delivery post at the expiration of 48 hours after the notice was delivered into the custody of the postal authorities.

22.CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

A person who is not a party to this Agreement has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from such Act.

23.ARBITRATION

In the event of any dispute arising out of the interpretation of this Agreement or otherwise in respect of the carrying out of the same the matter shall be referred to a sole arbitrator to be agreed between the parties, or failing agreement to be appointed by the President for the time being of the Institution of Civil Engineers, in accordance with and subject to the Arbitration Act 1996 or any statutory variation, modification or re-enactment. Nothing in this clause shall authorise reference to arbitration of any question as to whether the whole or any part of the Section 38 Works or the Section 278 Works have been carried out and completed to the satisfaction of the Proper Officer and on any such question the decision of the Proper Officer shall be final.

24.ASSIGNMENT

This Agreement may not be assigned by the Developer without the written consent of the Council.

IN WITNESS whereof this Deed has been executed on the day and year first before mentioned

SCHEDULE 1

Section 38 Works

Part 1

- 1) All highway drainage (including drainage situated outside the Roads)
- 2) All other drainage contained within the highway
- 3) All kerbing and where appropriate kerbs including lowering at vehicle crossings and pram-ramps and sub-base and binder course surfacing to pedestrian way
- 4) Carriageway sub-base, base course and vehicle crossings (where appropriate)
- 5) Carriageway binder course surfacing and all vehicle crossings (where appropriate)
- 6) All footpaths constructed in block pavers or flagged
- 7) Demarcation of sight lines, vision splays and (where appropriate) verges and service strips
- 8) Where appropriate, structures built in under or over the Roads or which support the Roads including bridges, footbridges, retaining walls, pipe gantries, culverts, pipes, tunnels, chambers, cellars, shafts, soakaways and storm water balancing tanks
- 9) Where appropriate, non-structure soakaways including those not within the highway boundary

Part 2

- 1) All outstanding kerbing not completed in Part 1
- 2) Pedestrian ways
- 3) Carriageway surface course (including non-standard or enhanced surfacing) and outstanding carriageway base course including (where appropriate) speed restraint measures
- 4) Vision splays and where appropriate verges and service strips
- 5) Road markings where appropriate
- 6) Traffic signs where appropriate
- 7) All other works described in the Specifications and shown on the Plan.

SCHEDULE 2

Carrying out of the Section 278 Works

1. Before commencing any part of the Section 278 Works the Developer shall submit (in so far as that shall not at the time already have been done) to the Proper Officer for his approval:
 - 1.1. (insofar only as any works are not adequately defined on the Plan or the Specifications) detailed drawings plans and specifications of the Section 278 Works proposed;
 - 1.2. the name and address of the person or company who the Developer proposes to employ for carrying out those works;
 - 1.3. a programme and method statement for carrying them out;
 - 1.4. a scheme of traffic management for use during the period of construction of the works concerned;
 - 1.5. insurance policies covering the works concerned and complying with clause 20 of this Agreement;
 - 1.6. health and safety plans as required by the Construction (Design and Management) Regulations 2015 (together with any further regulations from time to time amending or replacing them);

and shall make all necessary arrangements for carrying out the Section 278 Works including the service of any necessary notices in particular in relation to Service Undertakers' apparatus and all other equipment over or under the highway for enabling it to comply with the provisions of this Agreement.
2. Where it is necessary to build retaining walls and other structures to support the Section 278 Works or any part of them no work shall be carried out on these sections of the Section 278 Works until the details of construction have been submitted to the Proper Officer by the Developer and approved by the Proper Officer and construction thereof shall be carried out in accordance with the approved details.
3. The Proper Officer shall set a date for completion of the Section 278 Works having due regard to the programme supplied to him pursuant to paragraph 1.3 of this Schedule and shall confirm such date in writing to the Developer at the same time as approving that programme.
4. The Developer shall:
 - 4.1. employ the contractor approved under paragraph 1 of this Schedule for the Section 278 Works or such other contractor as the Proper Officer shall approve;

- 4.2. if and to the extent required by the Proper Officer provide temporary traffic signal controls of a type which meet Department of Transport requirements;
- 4.3. if and to the extent required by the Proper Officer from the commencement of the Section 278 Works until they become subject to the Part 1 Certificate (or such later date as the Proper Officer shall require) ensure that:
 - 4.3.1. adequate warning signs lights and cones are provided and maintained in good working order in accordance with Chapter 8 of the Traffic Signs Manual published by Her Majesty's Stationary Office; and
 - 4.3.2. any temporary traffic signal controls required by the Proper Officer in paragraph 4.3.1 of this Schedule are maintained in proper working order.
- 4.4. not (without the written consent of the Proper Officer) carry out or permit any of the Section 278 Works within (or so as to necessitate the movement of plant or equipment on) highway maintainable at the public expense to be carried out on:
 - 4.4.1. a Sunday or bank holiday; or
 - 4.4.2. before 8-00 hours or after 18-00 hours Monday to Friday; or
 - 4.4.3. before 8-00 hours or after 14-00 hours on a Saturday.
- 4.5. If at any time during the periods specified in paragraph 4.4 of this Schedule the Developer fails to provide adequate warning signs lights or cones or any such provided are not in good working order or mud is deposited on the highway maintainable at public expense and not immediately removed the Proper Officer may take such action as he considers necessary to remedy the failure and shall charge the Developer the reasonable and proper cost of doing so including materials plant labour and administrative costs.

SCHEDULE 3
Specifications for the Works

General specification for the
Construction of roads and footpaths
In residential developments



South Tyneside Council

General Specification for the Construction of Roads and Footpaths in new Residential Development

Layout plans for inclusion in a streetworks adoption agreement must be provided at a scale of 1:500 with plot numbers indicated and North identified.

The Road Construction shall be designed in accordance with this Specification. The layout of the development shall be designed in accordance with the Guidance Notes for New Developments – 2012. Design period to be 40 years with 4% growth rate.

The minimum gradient is 1/150 for asphalt-paved roads, 1/100 for block-paved courts and the maximum is 1/20. For roads designed with a camber, minimum cross road gradient is 1/80, maximum is 1/40. For roads designed with a crossfall, minimum cross road gradient is 1/40, maximum is 1/25.

Details of the proposed road construction, together with soil test results, traffic figures and design procedure, must be submitted to the Highways and Transport Design Manager, or their representative, for approval.

The Specification for roadworks shall be the current edition of the Highways Agency's 'Design Manual for Roads and Bridges', modified and supplemented by the special clauses indicated below. (S)

Private utility service boxes; e.g. water stop taps and private utility service feeds are not permitted in any adoptable area.

Roadworks

Clause 907 (S) – Rolled Asphalt Surface Course for Residential Roads

40mm HRA 35/14 F surf 40/60 - 40mm thickness surfacing and pre-coated chippings

Hot rolled asphalt to BS EN 13108:4 2006, Table 4, design type 35/14F, 35% 0/14 coarse aggregate content; paving grade bitumen binder, 40/60 pen, to Table 16.

Pre-coated chippings graded 14/20 with a 70% spread. BS 594-2:2003 cl 7.1.3

* NOTE Where the estate road will become a bus route, then crushed rock with an aggregate abrasion value of 10 maximum and PSV of 60 minimum must be used.

Clause 917 (S) - Regulating Course (if required)

HRA 50/20 reg 40/60 – varying thickness

Rolled asphalt regulating course to BS EN 13108:4 2006, Table 1, columns 50/11, 50/16 or 50/22, in layers no thicker than 80mm each.

50% coarse aggregate content; paving grade bitumen binder, 40/60 pen to Table 16.

Clause 903 – Binder Course

40mm AC 20 dense bin 100/150

Dense Bitumen Macadam binder course, 20mm nominal size to BS EN 13108-1:2006, Table 2 with 100-pen bitumen binder.

Clause 811 – Base Course

80mm AC 32 dense base 100/150

Dense Bitumen Macadam base course, 32mm nominal size to BS EN 13108-1:2006, Table 2 with 100-pen bitumen binder.

Clause 810 (S) – CONCRETE BLOCK PAVING IN CARRIAGEWAYS AND VEHICULAR CROSSINGS and

Clause 1107 (S) – CONCRETE BLOCK PAVING IN FOOTWAYS, FOOTPATHS, PAVED AREAS AND CYCLEWAYS

1. General

- i. Concrete block paving shall be manufactured in accordance with BS EN 1338:2003 and laid in accordance with BS 7533-3:2005.
- ii. All the requirements of the Highways Agency's 'Design Manual for Roads and Bridges' shall apply except where the requirements of this supplementary clause supersedes them.

2. Surface levels of pavement courses

- i. The formation and sub-base shall not deviate from true level by more than: -

	+ 20mm		
formation	- 30mm	sub-base	± 20mm

- ii. The finished wearing surface level shall not deviate vertically at any point from the true pavement surface by more than ± 6 mm. Immediately adjacent to gullies and manholes, the tolerance shall be $+3$ mm to 0 mm.
- iii. The maximum deformation within the completed surface, measured by a 3m straight edge placed parallel to the centre line of the road, should not exceed 6mm except in parts of the carriageway where vertical curves necessitate a greater deviation.
- iv. The levels of any two adjacent blocks shall not differ by more than 2mm.

3. Edge Restraint

- i. Unless otherwise described in the Works Agreement or agreed in writing by the Engineer, the edge restraint shall be provided in advance of the laying of paving blocks.
- ii. Edge restraint is deemed to include kerbs in accordance with clauses 1101 and 1103. (The term kerb includes flush kerbs.) Where an alternative form of edge restraint is proposed, the Engineer's approval shall be obtained in writing.

4. Laying Course

- i. The laying course shall consist of a compacted thickness of 30mm graded sharp sand (or recycled glass material) to BS EN 12620:2002, Table 2, containing not more than 3% of silt and clay by weight.
- ii. The sand shall be struck off to such a level that, when blocks have been vibrated, the upper face of the blocks shall be true to the finished level. Before the blocks are laid, the laying course shall not be subjected to any form of trafficking, including pedestrian trafficking, before, after or during screeding.

Surcharge Vibration of blocks shall be completed as soon as possible to ensure that the sand surcharge is correct and if not, alterations made.

5. Selection and Laying of Blocks

- i. Unless otherwise described in the Works Agreement, herringbone pattern shall be used for all types of blocks.
- ii. Unless otherwise described in the Works Agreement, blocks with a nominal thickness of 80mm shall be used for roads and paved areas subject to vehicular traffic and blocks with a nominal thickness of 60mm shall be used for areas used exclusively by pedestrian traffic.
- iii. Blocks shall be placed firmly together without disturbance to the laying course and the order of placing the blocks shall ensure this.
- iv. Blocks shall be cut to exactly fit all obstructions and edges. The laying pattern shall be altered at edges in order that no block less than half size shall be used. Cutting of blocks shall be carried out using a hydraulic splitter or a mechanical saw. Mortar fillets may not be used.

6. Vibration

- i. The surface course shall be subject to passes of a vibrating plate compactor which shall have a centrifugal force of approximately 16-20 kN and a frequency of approximately 75-100 Hz and a plate area of between 0.35 and 0.5m² shall be used on 80mm thick blocks. On 60mm thick blocks the vibrating plate compactor shall have a vibrating force of 7-16 kN and a plate area of 0.2 to 0.4m² and a frequency of 75-100 Hz. Sufficient passes shall be made to compact the laying course and produce an even surface.
- ii. Vibration shall not be carried out within one metre of an unrestrained edge.
- iii. After initial vibration, bagged dry fine sand shall be brushed into the joint and further passes of the vibrating plate compactor made to fill the joints, more bagged dry fine sand being spread over the surface to completely fill the joints.

Sanding of the blocks is to be completed before any traffic is allowed onto the area.

Clause 803 (S) – TYPE 1 UNBOUND MIXTURES

300mm thickness of sub-base material laid on a sub-grade material of not less than 3% CBR value. The sub-base shall extend to 450mm beyond the road face of the kerbs. Where the CBR is less than 3% the sub-base must be increased to a depth agreed with the Engineer.

Sub-base material will be subject to testing at the discretion of the Engineer. The Contractor may lay the sub-base material before the test results are known at his own risk. Test results are normally available within 3 working days of delivery.

Clause 1025 (S) - Concrete Carriageway (150mm minimum depth on 150mm minimum depth of sub-base)

- a. The weight of cement incorporated in each cubic metre of fully compacted concrete shall be not less than 325 kg and not more than 500 kg. Concrete grade C32/40
- b. The concrete road slab shall be laid on an underlay of approved 1000 grade impermeable plastic sheeting. 125 microns thick. Where more than one sheet is required, they should overlap by 300mm. [Clause 1007.]
- c. Steel fabric reinforcement shall comply with the requirements of BS 4483: 2005 table 1, C385 and shall be delivered to the site in flat mats weighing not less than 3.41 kg per square metre.
- d. Expansion joints shall be formed in the carriageway not more than 60 metres apart.
- e. Contraction joints shall be formed in the carriageway at 20 metre intervals and placed equidistant between expansion joints.
- f. The restrictions on the use of newly constructed pavements imposed by Clause 1048 should be strictly adhered to.

Kerbs and footways

Utility verges and their construction

a. Backfilling to Trenches

All trenches (including Public Utility trenches) in proposed carriageway areas are to be backfilled above the approved bedding with Type 1 D.Tp. sub-base material up to formation level and compacted in 100mm layers.

b. Compaction of Trenches in Proposed Footways/Footpaths

All trenches (including Public Utility trenches) are to be individually compacted at the formation level of the footway/footpath and topped up as necessary, prior to general rolling of the formation.

Construction

c. Formation

Prior to laying the sub-base, the formation shall be treated with a residual herbicide approved under current pesticide legislation, applied in accordance with the manufacturer's instructions. This must also comply with the current COSHH Regulations.

If the weed problem is excessive, a 'weed barrier' must be laid prior to the sub-base. Invasive weeds (such as Japanese Knotweed) should be treated for a minimum of 2 growing seasons, prior to laying the sub-base.

d. Crossfall

Crossfall to footway/footpath is to be 1 in 32.

e. Where public utility services are situated under any footway/footpath under construction, all work on laying the services, providing connections etc., must be completed prior to the final surfacing being laid.

f. Footpath Drainage

Footpaths must be positively drained. Absorption of run off into planted areas is not acceptable.

- i. Footpaths must have a longitudinal gradient between 1 in 100 (1%) and 1 in 20 (5%).
- ii. Footpath gullies connected in to the adoptable drainage system must be provided at low points.
- iii. Footpaths must have a crossfall of 1 in 32 and fall away from buildings.
- iv. Dished drainage channels are not permitted within the footpath.

Clause 1104 (S) Footways (Concrete Flags)

1. The area to be flagged shall be properly levelled and compacted and covered with not less than 150mm of compacted sub-base of Clause 803 Type 1 granular material upon which shall be laid an even bedding of sand of 30mm

thickness. No sand shall be spread until the base has been levelled and compacted to true lines and levels.

2. The flagging shall be 63mm precast concrete slabs, laid in courses at right angles to the line of footway, with a crossfall of 1 in 32 where practicable. Joints shall be properly bonded with a minimum of 150mm overlap and each flag shall be driven into place with a mallet to give a firm bedding. A straight edge shall be used to ensure that adjacent flags are flush across the joints, which shall not be greater than 3mm wide and completely filled by brushing in a dry mix of 1:3 cement:sand mortar after laying.
3. At curves and road junctions, flags shall be cut to line and radii. Where the radius is 12m or less, all flags shall be radially cut on both edges to the required line. Where obstructions such as steps, valve boxes, lamp standards etc. are encountered in the flagged area, the flagging shall be cut to fit neatly around such obstructions and only where this is impractical shall insitu mortar fillets be used.
4. Making up at the back of footway, against garden walls etc. must be kept to a minimum width and will in no case exceed 50mm width. This 'heading' shall be filled with a 3:1 sand:cement mortar.
5. Crossings of the flagged footway will be treated as detailed below.

a. Vehicular Crossing Entrances

The kerbs at each side of the crossing, which is to be a minimum width of 2500mm, shall be sloped down to a 20mm check at toe of the ramp, extending along the full width of the crossing. The concrete ramp must extend to the full width of the crossing, plus the sloped kerbs.

A 150mm thick ramp of concrete mix 'PAV 2' shall be constructed, extending 600mm behind the kerb if the footpath width exceeds 2000mm and 450mm behind the kerb if the width is less than 2000mm. The gradient of the ramp shall be constant and not curved.

The remaining area of flagging shall be laid directly on a 100mm thickness bed of concrete mix ST5 for the full width of the crossing. The line and level of the footway shall continue without any deviation which would indicate the presence of the crossing.

b. Pedestrian Crossing Points

The kerbs at each side of a pedestrian crossing point which is to be a minimum width of 1200mm (normally 1800mm) shall be sloped down (maximum slope 1 in 12) to a maximum 6 mm check at the toe of the ramp, extending the full width of the crossing. It is permissible to drop the footway over its full width in order to achieve a maximum gradient of 1 in 12.

Tactile paving laid in accordance with Department of Transport 'Disability Unit Circular 1/91', will normally be provided adjacent to an estate entrance.

Any proposed kerb system must be capable of achieving a 6mm check at crossing points and dropping from 100mm kerb face to 6mm at a maximum gradient of 1 in 12.

6. Any concrete with an exposed surface, i.e. insitu concrete fill to splitter islands, to be 'PAV 2' mix.

Clause 1105 (S) Footways (Flexible)

Note

Prior to application of tack coat or wearing course, treat base course with a residual herbicide approved under current pesticide legislation applied. This must also comply with the current COSHH Regulations.

1. **Flexible Surfacing – AC 6 dense surf 100/150** shall be 25mm consolidated thickness of dense wearing course macadam, 6mm nominal size to BS EN 13108:1 2006.
2. **Basecourse – AC 20 open bin 100/150** shall be laid to a 50mm consolidated thickness of 20mm nominal size, open graded base course macadam to BS EN 13108:1.
3. **Sub-base** The granular sub-base shall consist of Clause 803, Type 1 granular material. It should be laid to the same crossfall as the surfacing, to a consolidated thickness of 150mm where no vehicular traffic is envisaged and a thickness of 200mm over vehicular crossings and minor accesses for light vehicles.

Sub-base material will be subject to testing at the discretion of the Engineer. The Contractor may lay sub-base material before the test results are known at his own risk. Test results are normally available within 3 working days of delivery.

4. Where the side(s) of the flexible footpaths abut a verge or a landscaped area, the edge of the pavement shall be supported by 50x150mm flat topped precast concrete kerbs. The kerbs shall be set on a 200x100mm concrete mix ST4 base and haunches both sides.

Clause 1106 (S) Kerb Foundation

Kerbs shall be laid on a foundation of concrete mix ST4, not less than 150mm thick and extending beyond the rear of the kerb for a distance not less than 150mm. The kerbs shall be backed by a concrete haunch to a distance of 75mm below the top of the kerb.

Clause 1101 (S) Laying the Kerbs, Channels and Safeticurb

The kerb, channels and safeticurb shall be bedded as specified by Clause 1101, Highways Agency Specification, using 1:3 cement:sand mortar. On all radius work, the end of the last kerb laid is to be buttered up with mortar before laying the next kerb and any surplus mortar is to be trowelled off. On straight sections, kerbs are to be butt jointed with a dry joint not more than 2mm wide. Expansion joints are to be provided at expansion joints in the concrete carriageway.

NOTE If kerb joints are pointed after laying, an approved epoxy resin mortar shall be used.

Drainage

Clause 508 (S) – Gullies and Service Ducts

Clause 2617

a. Road Gullies (Cast Iron Gratings and Pots)

Gullies shall be as supplied by Jennings Winch & Foundry Co. Ltd., Sunderland or similar approved. They shall be of cast iron, of South Shields Corporation pattern, with a weight of 203kg and a 150mm trapped outlet. Gullies are to be bedded and surrounded with 150mm thick concrete mix ST4.

b. Road Gullies (Precast Concrete or Plastic Gully Pots)

Precast concrete road gully pots shall comply with BS 5911-4:2002 and be 450mm diameter, 750mm deep with 150mm diameter outlet. The gully pot shall be bedded and surrounded with 150mm concrete mix ST4.

Alternatively, a suitable 450mm diameter plastic pot may be used with 150mm thick concrete mix ST4 surround

c. Road Gullies (Gratings and Frames)

Road gully gratings and frames shall be PAM 'Waterflow' (C250) 29kg (75mm), PAM 'Watergate' (C250) 29kg (100mm), PAM 'Watershed' (D400) 39kg (100mm) or similar approved and shall be bedded on 2 courses of 225mm class 'B' engineering brickwork in 2:1 sand:cement mortar. Grating must include locking pins within hinge and a locking device to inhibit unauthorised opening.

d. Footpath Gullies (Vitrified Clay)

Footpath gully gratings shall be similar to the Stanton 'Pedestrian' ref HY813 1, including locking spring clip and the pot shall be 300mm diameter with 150mm trapped outlet and rodding eye with a lift out bucket. The gully pot shall be bedded and surrounded with 150mm concrete mix ST4.

Note

All gully pipe connections within the carriageway or parking areas are to be surrounded with 150mm of concrete mix ST4, where the cover from formation level is less than 900mm. A flexible joint is required at the junction of gully pot and the pipe connection.

e. Service Ducts

Service ducts across carriageway areas are to be surrounded with 150mm concrete mix ST4 if clayware pipes are used.

The concrete surround must be below formation level of the carriageway.

Special sewer and drain works clauses

1. Manhole covers and frames shall be of ductile iron and shall comply with BS EN 124: 1994. Group 4 (minimum class D400) covers and frames shall be used in carriageways and Group 2 (minimum class B125) circular covers and frames used elsewhere. (Note: Manhole covers on private drains in adopted areas shall be group 2, 60/45 rectangular.)
2. Where sewers or drains lie under a carriageway or footpaths, the trench must be backfilled above the approved bedding with Type 1 D.Tp. sub-base material up to formation level and compacted in 100mm layers. Minimum pipe size under highway is 150mm, including private drains.
3. Where drains lie under the carriageway or any areas which carry vehicular or construction traffic and the excavated formation level will be less than 0.9m during construction above the crown of the pipe, then the pipe shall be laid in 150mm thick concrete mix ST4 surround with the flexible joints maintained through the concrete surround. (Note: Flexible joints at 2000mm centres are required in surrounds to plastic pipes or alternatively provide 150mm deep, reinforced, concrete mix ST4 slab. Width of slab equal to trench width +600mm. Slab to be positioned below formation level. Reinforcement to be B1131 mesh.)
4. Where drains lie under fields, gardens or other traffic-free areas and the cover to the crown of the pipe is less than 0.9m, then the sewer shall be surrounded with not less than 150mm of concrete mix ST4, with the flexible joints being maintained throughout the concrete surround. (Note: Flexible joints at 2000mm centres are required in surrounds to plastic pipes or alternatively provide 150mm deep, reinforced, concrete mix ST4 slab. Width of slab equal to trench width +600mm. Slab to be positioned below formation level. Reinforcement to be B1131 mesh.) This clause also applies to private drains under public areas.

Traffic Signs

Clause 1202 – Requirements for Permanent Traffic Signs

1. All traffic signs and fittings shall be manufactured in compliance with BS EN 12899-1:2007 and BS EN ISO 1463:2004 and shall conform to the current Highways Agency circulars.

In addition, the sign plate shall be made of a material known to be suitable for the sheeting material to be applied.

2. The manufacturer's instructions shall be strictly followed in respect of the preparation of sign plates, application of sheet material to the sign plate, including clear lacquer finish and the edge sealing of cut-out letters, symbols and borders.
3. A written guarantee against faulty workmanship, for at least five years, shall also be provided by the manufacturer.

Street Name Plates

The street name plates are to be in position before the first property is occupied.

Manufacture

Street name plates shall be manufactured from 11 SWG Aluminium with die pressed letters and border. Lettering shall be black, 88mm 'Kindersley' style and the plate shall have a 12mm black border. Heat activated non-reflective white coloured backing applied. The back of the plate shall be painted and finished with 'Traffic Grey' gloss. Lettering and borders shall not be vinyl adhesive types.

South Tyneside Council logo shall be located at the left hand edge of the plate, 90mm height, in line with the first line of wording.

In conservation areas, plates shall be cast metal with raised lettering and borders.

The inclusion of either the wording 'culs de sac' or no through road sign 816.1 (from 'The Traffic Signs and Regulations and General Directions 2002') where appropriate.

Mounting

WHERE POSSIBLE, THE STREET NAME PLATE SHALL BE MOUNTED AT FIRST FLOOR HEIGHT ON APPROPRIATE BUILDINGS.

Where the sign must be post mounted, 12mm square aluminium channels shall be fitted to top and bottom. Post mounted vehicle access boards shall have 25mm square aluminium channel.

Mounting posts shall be 50mm diameter galvanised steel, sunk 600mm into earth, with 300x 300x 450mm concrete footings. Normal mounting height of access board is 1.0m.

Locations of street name plates are to be agreed with the Engineer.

Maintenance of highways

(Please also see the Council's Policy document 'Environmental Guidelines for Contractors working on the Highway' – copy attached.)

1. The Contractor shall take all necessary steps to ensure that: -
 - a. No mud, clay, soil, dust or similar material is deposited from any vehicle leaving the site onto any highway or other part of any route used by such vehicle for purposes connected with the performance of this Contract;
 - b. All vehicles leaving the site are so loaded that spillage therefrom is prevented;
 - c. Any material deposited in contravention of this clause is to be removed by the Contractor from all roads, footways, verges, working areas, gullies etc. affected by his operations, including any material deposited outside the limits of the Site, in a manner approved by and to the satisfaction of the Engineer;
 - d. Any damage caused to the highways or other parts of the routes used by such vehicles or to services therein, by the deposit or removal of any such materials, shall be made good to the satisfaction of the Engineer.
2. The Contractor is responsible for the compliance with this Clause, of his suppliers, sub-contractors and any other party connected with this Contract and shall indemnify the Employer against and expense, liability, loss, claim costs or proceedings in respect of any injury or damage whatsoever to any property, real or personal, which is attributable to non-compliance with this Clause.
3. The Engineer may direct that any vehicle, which in his opinion is likely to cause a breach of the obligations contained in this Clause, shall not leave the site until suitable remedial works have been carried out to his satisfaction.
4. Compliance with the Clause does not relieve the Contractor from fulfilling the requirements of any District Council By-Law relating to mud, etc. on highways.
5. All the above provisions shall apply throughout the Contract Period and the Period of Maintenance.

Environmental guidelines for contractors working on the highway

The Council attaches great importance to Environmental and Road Safety issues associated with Highway Works. Contained within our contract documentation are references to legislation and Council requirements that all contractors are obliged to follow.

With ever increasing traffic densities it is very important that clear and early warning of any obstructions on the road must be provided in accordance with the Traffic Signs Manual Chapter 8.

The following list of **PLEASE REMEMBER** activities highlight construction practices that adversely affect the environmental and safety aspects of our highway network and as such will be carefully monitored during the period of your works.

This list is not meant to be exhaustive, think of it as a 'Good Practice Guide' for working on our highways and help us to keep the Borough as a safe and pleasant place to live, work and play.

- PLEASE REMEMBER TO -

- Refer to your obligations under the Contract/Specification - Note that your sub-contractors are **YOUR** responsibility;
- Provide and maintain the required signs and barriers, promptly removing them at the appropriate time – any unauthorised signs and road markings will be immediately removed –
Note that the requirements of the Traffic Signs Manual Chapter 8 will be strictly enforced;
- Make adequate provision for pedestrians, prams and the disabled, paying particular attention to the needs of those with visual and mobility handicaps;
- Park vehicles sensibly on the carriageway, not on the footway or verge, or where they will force other road users to run over the footway or verge;
- Agree storage areas for your cabins, materials, plants, etc. with me before they arrive on site, and make good the areas to my satisfaction before you leave the site;
- Make adequate and secure provision for the storage of rubbish, you can now be fined for litter;
- Protect the carriageway, footways and verges from staining or damage due to mixing concrete, oil and fuel spills from plant, outriggers, etc. – all damage will be repaired to my satisfaction within 48 hours;
- Prevent cement washings, landscape soil spillage and the like from entering the drainage system;
- Obtain a permit for the placement of skips and the erection of scaffolding and hoardings within the highway.

Thank you
(Executive Director Economic Regeneration)



EXECUTED as a DEED)
by affixing the **COMMON**)
SEAL of THE COUNCIL)
OF THE BOROUGH OF)
SOUTH TYNESIDE)
in the presence of:)



Mayor

~~Head of Legal Services~~ *Authorised Signatory*

SIGNED as a DEED by

as attorney for

ALDI STORES LIMITED

under a Power of Attorney

dated 20th July 2009

in the presence of:-

Witness' signature:

Name (in block capital)

Address:

**Claire Harlow
Cumberland Court
80 Mount Street
Nottingham NG1 6HH**

