

## MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING is made this 30<sup>th</sup> day of August 2019

BETWEEN

- 1 STRATFORD-ON-AVON DISTRICT COUNCIL of Elizabeth House, Church Street, Stratford-upon-Avon, Warwickshire, CV37 6HX ("the Council")
- 2 EDWARD JOHN LITTLER, FLORENCE CURRIE, MICHAEL JOHN LITTLER, ROBERT PETER LITTLER, CHRISTOPHER MAXWELL LITTLER, ELIZABETH ANNE WEST and LITTLER INVESTMENTS LIMITED (Company number 00841682) (collectively "the Owners").

### RECITALS

- (A) The Council formally resolved to make a Compulsory Purchase Order ("CPO") in respect of the Airfield on 11 March 2019 as follows: *"make a CPO(s) under section 226(1)(b) of the Town and Country Planning Act 1990 and the Acquisition of Land Act 1981 in respect of all or part of the land edged red on the Order Plan attached at Appendix 1 and any additional land which is considered to be required in order to safeguard the existing use of the Order Land, alongside negotiations for voluntary acquisition"* ("the Resolution").
- (B) Pursuant to the Resolution and paragraph 17 of the MHCLG's Guidance on Compulsory Purchase Process and the Crichel Down Rules dated July 2019, the Council has been engaging in meaningful discussions with the Owners to explore alternative options to making the CPO in order comply with Policy AS.9 of its Core Strategy and any other applicable policies and in so doing has agreed to the assurances contained in Clause 3 of this MoU.
- (C) During the course of the discussions, the Owners have agreed to collaborate with the Council to maintain the established flying functions at the Airfield whilst pursuing the Development and in so doing have agreed to the assurances contained in Clause 2 of this MoU.

### 1 DEFINITIONS

- 1.1 **Airfield:** Wellesbourne Airfield as shown edged red on the plan at Appendix 1
- 1.2 **Development:** proposed mixed use redevelopment of the Airfield which retains and supports the flying functions and provides enhanced aviation related facilities at the Airfield as proposed by the Owners in accordance with Policies AS.9 of the Council's Core Strategy and any other applicable policies and including a code 1 runway (750m x 18m)
- 1.3 **Infrastructure and Operations:** all the necessary infrastructure and operations required to operate a functioning airfield, including but not limited to:
  - (a) Retention of airfield licence
  - (b) Retention of existing bi-directional runway and associated taxiways, identified as Runway Reference 18/36
  - (c) Maintenance of existing navigation aids and flight information
  - (d) Ensuring a fire crew is in attendance during licenced hours
  - (e) Provision of maintenance services
  - (f) Provision of aviation fuel service to meet the needs of the Tenants and all users of the Airfield

- (g) Provision of outside aircraft parking and storage
- (h) Maintenance of existing hangars
- (i) Provision for helicopter usage including maintenance and storage
- (j) Provision of private and commercial flight training
- (k) Provision of flying club
- (l) Provision of suitable ancillary facilities e.g. rest areas, catering, toilet facilities etc
- (m) Maintenance of existing visitor car parking
- (n) Provision of emergency diversion service (Strasser scheme).

1.4 **The Tenants:** the tenants of the Airfield as at the date of this MoU

## 2 ASSURANCES ON THE PART OF THE OWNERS

- 2.1 To use reasonable endeavours to maintain the established flying functions at the Airfield by maintaining the Infrastructure and Operations for the duration of this Agreement;
- 2.2 To enter into dialogue with the Tenants at the Airfield and if the discussions are constructive to use reasonable endeavours to offer the tenants new contracted out tenancies on reasonable terms in relation to cost and duration for 12 months (with a Landlord's-only 28-day break clause exercisable only on termination of this MoU pursuant to Clause 4) before the cessation of the existing tenancies. This will involve but not be limited to the following steps:
- (a) Within 2 days of signing the MoU, the Owners will write to the tenants with whom discussions have been constructive (or their solicitors) to confirm the proposals for each tenancy and provide copies to the Council in commercial confidentiality;
  - (b) Within 15 working days the Owners will provide an update to the Council in commercial confidentiality setting out a summary of the stages of negotiation with each tenant;
  - (c) By no later than 30 September 2019, the Owners will provide the Council in commercial confidentiality with an update on the tenancy position for those tenants whose current tenancies end on 30 September 2019;
  - (d) By no later than 29 October 2019, the Owners will provide the Council in commercial confidentiality with an update on the tenancy position for those tenants whose current tenancies end on 29 October 2019;
  - (e) In the event any of the tenants do not agree to the terms of the new tenancies being offered, the Owners will update the Council within 2 working days and discuss and seek to agree the next steps with them.
- 2.3 To use reasonable endeavours to work collaboratively with the Council's planning policy team to finalise a masterplan relating to the Development ("the **Masterplan**") within a timescale to be agreed between the Parties;
- 2.4 To use reasonable endeavours to submit a planning application relating to the Development within a timescale to be agreed between the Parties. The planning application will include a phasing and implementation plan, which details how the flying function would be retained during the construction and operation of the Development;

- 2.5 To use reasonable endeavours not to take any steps to prejudice the Development;
- 2.6 To use reasonable endeavours to provide regular updates, every two months as the minimum and more regularly when there are key developments or as expressly set out, to the Council on the position in respect of all the assurances noted above.

### **3 ASSURANCES ON THE PART OF THE COUNCIL**

- 3.1 Not to take any active steps to make a CPO pursuant to the Resolution prior to notice being given by either party to terminate the MoU pursuant to the termination provisions in Clause 4;
- 3.2 To work collaboratively with the Owners in agreeing the Masterplan;
- 3.3 To retain the 'Wellesbourne Airfield Cost Provision' of £1.125m within its budget whilst the MoU is in place. Whilst the expenditure of this money will remain entirely in the Council's control, the Council will consider opportunities for this money to be spent to enable the achievement of the objectives of the Core Strategy.

### **4 TERM AND TERMINATION**

- 4.1 This MoU shall continue in full force for 12 months from the date of completion or until such other date as the Parties may otherwise agree in writing.
- 4.2 Either party may terminate this MoU by giving 1 month's notice in writing to the other party.
- 4.3 This MoU may be terminated by either party with immediate effect by giving notice in writing to the other party if:
- (a) the other party is in material breach of any of the assurances in clauses 2 and 3 or the other terms of this MoU;
  - (b) liquidation or similar proceedings are filed by or against the other party or if any action is taken by or against the other party under any law the purpose or effect of which is or may be to relieve such party in any manner from its debts or to extend the time of payment thereof or the other party makes an assignment for the benefit of creditors or makes any conveyance of any of its property which in the opinion of the terminating party may be to the detriment of that party's creditors; or
  - (c) a receiver or trustee or similar official is appointed with authority to take possession of the other party's property or any part thereof.

### **5 COSTS**

The Council shall bear their own costs and the reasonable legal costs of the Owners in relation to the drafting of the MoU.

### **6 GENERAL ASSIGNMENT**

This MoU is personal to the parties and neither this MoU nor any rights, licences or obligations under it may be assigned, charged, transferred, mortgaged, otherwise encumbered or dealt with in any other manner (including declaration of trust over it) by either party without the prior written approval of the other party.

### **7 HEADINGS**

The headings in this MoU are for reference purposes only and are not intended to be taken into account in the interpretation of its provisions.

**8 VARIATION**

This MoU may not be released, discharged, supplemented, interpreted, amended, varied or modified in any manner except by an instrument in writing signed by a duly authorised officer or representative of each of the parties.

**9 NON WAIVER**

This MoU is entered into without prejudice to any rights the Owners may have in respect of any compulsory acquisition of the Airfield by the Council, including any right to (a) object to any proposed compulsory purchase order; (b) to judicially review or otherwise challenge any decision by the Council and/or Secretary of State in respect of any decision made in respect of the making, confirmation or exercise of powers under any compulsory purchase order; and (c) any rights to compensation arising from the exercise of any compulsory purchase order whatsoever.

**10 NOTICES**

All notices under this MoU shall be in writing and all such notices shall be deemed to have been duly given when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or if transmitted by fax or e-mail and a successful transmission report or return receipt is generated; and in each case addressed to the most recent address, e-mail address, or facsimile number notified to the other party.

**11 GOVERNING LAW**

This MoU and all matters arising from it (including non-contractual claims and disputes) and any dispute resolutions referred to below shall be governed by and construed in accordance with the law of England and Wales.

**12 JURISDICTION**

- 12.1 The parties submit to the exclusive jurisdiction of the English and Welsh courts.
- 12.2 Nothing in this MoU shall fetter the powers and/or duties (including those under statute) of the Council.

Signed for and on behalf of Stratford upon Avon District Council

Signature... *David Buckland*  
 Name... DAVID BUCKLAND  
 Position... INTERIM CHIEF EXECUTIVE  
 Date... 30 AUGUST 2019

Signed for and on behalf of the Owners

Signature... *Smith Partnerships*  
 Name... SMITH PARTNERSHIP  
 Date... 30th August 2019