Dated: 6 June 2023

DEED OF HIGHWAY WORKS AND DEDICATION

Pursuant to Sections 38 and 278 of the Highways Act 1980 and all other enabling powers

Relating to land on the West Side of Treliske Hospital, Truro

Between

(1) THE ROYAL CORNWALL HOSPITALS NHS TRUST

And

(2) THE CORNWALL COUNCIL

6 June

PARTIES

- (1) THE ROYAL CORNWALL HOSPITALS NHS TRUST of Royal Cornwall Hospital, Treliske, Truro, Cornwall Tr1 3LJ (Owner); and
- (2) **THE CORNWALL COUNCL** of New County Hall, Treyew Road, Truro TR1 3AY (**Council**).

BACKGROUND

- (1) The Owner is the freehold owner of the Land.
- (2) The Council is the local highway authority for the purposes of the Highways Act 1980 and intends to carry out the Works on the Land.
- (3) The Owner consents to the Works and has agreed to give up and dedicate the Dedication Land for use by the public as highway maintainable at the public expense.
- (4) The Owner acknowledges and accepts that part of the Land has been included in The Cornwall Council Langarth Garden Village, Threemilestone Compulsory Purchase Order 2022 where it is shown as plots 645, 650, 655, 660, 665, 675, 680, 685, 690 on the plan accompanying the Order and that this deed is entered into in lieu of the implementation by the Council of any power that it may have pursuant to the Order to compulsorily acquire the Owner's interest in such plots.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

1.1 The following definitions apply to this deed:

Accommodation Works: means works to accommodate the Owner and to reduce the impact of the Works on the Retained Land namely:

- (a) the Helipad Wall;
- (b) the Stub Junction;
- (c) reinstating the 'overflow' car park boundary with approximately1m. high picket fencing to match existing;
- (d) removal of existing redundant bus shelter; and
- (e) necessary relocation of existing service cables and ducts which the Council shall complete as part of the Works,

but in respect of which the Owner shall from Completion assume ongoing responsibility for management and maintenance.

Certificate of Completion: means the certificate issued by the Council confirming that the Works are Complete.

Complete: means completion of the Works such that the Highway becomes open for use by the public at large and "Completion" shall be construed accordingly.

Consents: means all relevant laws, planning permissions, consents, licences, diversion orders, traffic regulation orders, agreements with Undertakers or anybody else necessary to enable the Works to be carried out

Construction Programme: means the detailed construction programme to be submitted by the Council and approved by the Owner prior to the Works commencing, as may be further amended with the prior agreement of the parties in writing.

Dedication Land: means that part of the Land shown coloured pink on the Dedication Plan.

Dedication Plan: means drawing ref EDG1892 DETAILED S2 P05 appended to this deed.

Drawings: means the drawings appended to this deed identifying (a) the Street Lighting reference EDG1892CONSTRUCTION C01 (b) the Surface Water Drainage reference EDG1892 CONSTRUCTION C01 (c) the road surfacing reference EDG1892 CONSTRUCTION C01 and (d) road markings reference EDG 1892 CONSTRUCTION C01 and (e) footways and paved areas reference EDG 1892 CONSTRUCTION C02 as may be amended from time to time.

Enabling Works: means site clearance including removal of trees, walls and car park barriers and diversion of underground public and private utility equipment in accordance with the General Arrangement Drawing and Specification and all other preparatory works necessary to carry out the Works.

Expert: means a person appointed in accordance with the clause headed 'Dispute Resolution' to resolve any dispute or difference arising between the parties hereto touching or concerning any matter or thing arising out of this deed (other than a dispute or difference touching or concerning the meaning or construction of this deed).

Final Drawings: means the drawings in which have been incorporated accurate details of the completed Works and all apparatus pipes cables drains sewers manholes and structures whether they be in private or public ownership under in upon over along or across the Highway.

General Arrangement Drawing: means drawing ref EDG1892 CONSTRUCTION C01 appended to this deed showing the general layout of the Works.

Helipad Wall: means the 1.8 metre high wall to the east of the Land as identified on the General Arrangement Drawing.

Highways Act: Highways Act 1980.

Highway: new public highway consisting of carriageway, footway, shared pedestrian and cycle path and associated verges and service strips and connections to existing public highway and all things ancillary thereto (including Street Furniture) as shown for identification purposes only on the General Arrangement Drawing.

Highway Works: means the works to lay out and construct the new Highway including the installation of all related Street Furniture, Street Lighting, Surface Water Drainage System and Structures (if any) in, on, over or under the Land as more particularly set out in **Appendix 3**.

Land: means the Dedication Land and Retained Land being part of the Owner's property registered at HM Land Registry with title numbers CL96089 and CL105301.

Programme: means the indicative timeframe for Works set out in **Appendix 1** to this deed as will be supplemented by the Construction Programme.

Remedial Works: means the reinstatement of and the making good of any defect in or damage to the Works including any defect in or damage to Street Lighting, Surface Water Drainage and/or Structures (if any) as well as making good any damage to the Retained Land caused by the Works.

Retained Land: that part of the Land shown coloured light green on the Dedication Plan.

Section 228 Works: means the Highway Works within the area shown coloured red on the Dedication Plan.

Street Furniture: means all street furniture and associated equipment such as but not limited to control barriers and bollards in accordance with the General Arrangement Drawing.

Street Lighting: means all street lighting and associated equipment serving the Highway in accordance with the Drawings.

Structures: means (if any) any structures built in under or over the Highway where the aggregate span dimensions at any point is equal to or exceeds 0.9m (including amongst others bridges footbridges pipe gantries culverts pipes tunnels chambers cellars shafts soakaways manholes and storm water balancing tanks etcetera); or any structures built in or within 3.66m of the Highway which supports the Highway or ground above it or them and where the retained height either above or below the Highway is 1.4m or more (including amongst others retaining walls headwalls basements and cellars).

Stub Junction: means new stub junction (to the back of footway) for access to the Sterile Services Department for future development by the Owner.

Surface Water Drainage System: means the adoptable drainage serving the Highway in accordance with the Drawings.

Specification: means the specification for the Works to be carried out in accordance with the Drawings and General Arrangement Drawing appended as **Appendix 2** to this deed as may be amended with the prior agreement of the parties in writing.

Undertakers: means any person company corporation board or authority whose apparatus is at the date of this deed already installed in under over or upon the Land in, on or under which the Works are to be carried out and such expression shall include the authorised successor to any such person company corporation board or authority and to the assignee or the successor in title to any such person.

Works: means the Enabling Works, the Accommodation Works, the Highway Works and the Remedial Works.

- 1.2 The following rules of interpretation apply in this deed:
 - (a) The expression 'Owner' includes their respective successors in title.
 - (b) Unless the context otherwise requires references in this deed to clauses are to clauses in this deed.
 - (c) The headings to clauses are for reference only and do not affect its construction.

- (d) Any covenant to do any act or thing includes an obligation to procure that it be done and any covenant not to do any act or thing includes a covenant not to allow such act or thing to be done by a third party.
- (e) Where the Owner for the time being is two or more individuals the terms the Owner includes the plural number and obligations expressed or implied to be made by or with such party are deemed to be made by or with such individuals jointly and severally.
- (f) Words importing one gender include all other genders and words importing the singular include the plural and vice versa.
- (g) A reference to a person includes an individual, a corporation, company, firm or partnership or government body or agency, whether or not legally capable of holding land.
- (h) Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (i) Reference to any right of access or entry onto land for the purpose of carrying out works includes (where appropriate) access or entry by agents, employees, contractors workmen and others with all necessary vehicles, tools, plant, equipment and materials.
- (j) Reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended extended re-enacted or consolidated and all statutory instruments or orders made pursuant to it

2. STATUTORY AUTHORITY

This deed is made in pursuance of Sections 24, 38, 72, 228 and 278 of the Highways Act 1980, Section 9 of The Cornwall County Council Act 1971, Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other powers enabling the Council.

3. CONSENT TO WORKS AND RIGHTS OF ENTRY

- 3.1 The Owner hereby grants the Council full right, liberty and consent to carry out the Works on the Land.
- 3.2 Without prejudice to the generality of clause 3.1 above, the Owner grants the Council the temporary right for the duration of the Works for the Council to enter onto a strip of land three metres wide on either side of the Land in order to carry out the Works.

4. Works

- 4.1 In consideration of the consent granted by the Owner under clauses 3.1 and 3.2, the Council shall carry out the Works at the Council's expense, with due diligence and in a good and workmanlike manner, using good quality materials and well-maintained plant and equipment and in accordance with:
 - (a) the Consents and clause 5 below;
 - (b) the Specification; and
 - (c) the Programme and Construction Programme.

- 4.2 Subject to clause 7 below, the Council shall give the Owner not less than three months' notice in writing of its intention to commence the Works or any part thereof.
- 4.3 The Council shall not commence the Works until the Construction Programme has been submitted to and approved by the Owner in writing (approval not to be unreasonably withheld or delayed).
- 4.4 The Council shall give the Owner not less than six weeks' notice of changes to traffic layouts, impacts on the Owner's car parks and any restrictions to the Owner's operations that may be necessary to deliver the Works.
- 4.5 The Council shall notify the Owner of any material problems or delays in the performance of the Works and the parties shall agree any consequential amendments to the Programme and/or Construction Programme acting reasonably.
- 4.6 The Council shall notify the Owner of the Completion of the Works and such notification shall be accompanied by a Certificate of Completion together with a complete set of Final Drawings.

UNDERTAKERS

- The Council shall before carrying out the Works and connecting the Highway with any existing highway maintainable at the public expense give notice to each Undertaker of any service or services laid in upon or under such highway of the proposal to carry out the Works and to make such connection and shall bear the cost of any works or measures deemed necessary by the Undertakers in consequence of the proposal to carry out the Works and to make such connection.
- 5.2 The Owner shall not obstruct and shall cooperate with and provide reasonable assistance to the Council in the performance of its obligation under clause 5.1 above.

6. SECTION 228 WORKS

Subject to no objections being received the Council agrees that following Completion of the Section 228 Works it will carry out the procedures set out in Section 228 of the Highways Act 1980 with a view to adopting the Section 228 Works as a highway maintainable at the public expense.

7. POWER TO EXECUTE WORKS IN EMERGENCY

The Council is entitled by its own employees or by contract or otherwise to undertake such works as required to make the Works safe without requirement for prior notice to the Owner.

8. DEDICATION

- 8.1 On issue of the Completion Certificate Owner HEREBY GIVES UP AND DEDICATES TO THE PUBLIC the Dedication Land with the intent that on the date of the Completion Certificate the Dedication Land shall be added to and form part of the public highway for use by all traffic including but not limited to a right of way for mechanically-propelled vehicles.
- 8.2 The Owner consents to the Council applying to the Chief Land Registrar for entry of the following notice of dedication in the Charges Register of the Land:

The Owner gives up and dedicates to the public the parcel of land shown coloured pink on the drawing numbered [EDG1892 DETAILED S2 P05] to the intent that the said parcels of land shall be added to and form part of the public highway in accordance with the Deed of Works and Dedication between (1) The Cornwall Council and (2) the Royal Cornwall Hospitals National Health Service Trust dated []2023

8.3 The Dedication Land shall on the date of the Completion Certificate become vested in the Council and provided all necessary deeds of easement as required by the Council pursuant to clause 10 below have been entered into the Council shall maintain the Dedication Land as a highway at the public expense.

9. RETAINED LAND

- 9.1 The Council and the Owner agree that nothing in this deed shall be construed as affecting or interfering with the ownership of the subsoil of the Land (except so much of the sub-soil of the Land as is required to support the Highway) which shall remain part of the Retained Land.
- 9.2 The Council shall at all times have the right of support from the Retained Land including the sub-soil beneath the Retained Land and from any buildings or structures adjacent to or below the Retained Land.
- 9.3 The Owner shall at its own expense repair and upkeep the Retained Land including the sub-soil beneath the Retained Land and any buildings or structures adjacent to or below the Retained Land.
- 9.4 Without prejudice to the generality of clause 9.3 above the Owner shall at its own expense repair and upkeep the Helipad Wall and all other Accommodation Works.

10. EASEMENTS

- 10.1 Simultaneously with completion of this deed (or should circumstances arise that require a grant of easement following completion of this deed but prior to the Completion of the Works) the Owner shall execute and complete of such deeds of grant of easement as are in the opinion of the Council necessary to secure to the Council:
 - (a) full drainage rights and rights of access and egress for maintenance in respect of such part or parts of the Surface Water Drainage System that have been sited outside the limit of the Dedication Land; and
 - (b) full rights of access and egress as may be required by the Council for the future maintenance by the Council of any Street Furniture, Street Lighting or traffic signal equipment that have been sited outside the limit of the Dedication Land
- 10.2 The Council shall be liable for the payment of compensation or legal or other costs or fees arising from or on account of the grant of easements following completion of this deed but prior to the Completion of the Works.

11. NOTICES

11.1 Any notice given under or in connection with this deed must be in writing and must be delivered by hand or sent by pre-paid first class post or other next working day delivery service.

- 11.2 A correctly addressed notice delivered by hand shall be deemed to have been delivered at the time the notice is left at the proper address.
- 11.3 A correctly addressed notice sent by pre-paid first class post or other next working day delivery service will be deemed to have been delivered on the second working day after posting.

12. THIRD PARTY RIGHTS

12.1 A person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this deed but this does not affect any right or remedy of a third party which exists or is available apart from such Act.

13. ASSIGNMENT

13.1 This deed shall not be assigned by any one or all of the parties hereto except upon all parties entering into a deed of novation.

14. DISPOSITION

- 14.1 Upon a transfer of either the whole or part of any of the Dedication Land the Owner shall procure that the disponee shall enter into a deed covenant with the Council to perform the Owner's covenants and obligations in this deed (including consenting to the entry of the restriction referred to in clause 14.2 below)
- 14.2 The Owner consents to the entry of the following restriction against the Land at H M Land Registry and shall provide the Council with all necessary assistance and/or documentation to permit entry of the restriction:

"No transfer of the part of the registered estate shown coloured pink on the plan attached to this RX1 by the Proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by The Cornwall Council of Legal Services New County Hall Treyew Road Truro Cornwall TR1 3AY or their conveyancer that the provisions of 14.1 of a Deed of Works and Dedication dated

2023 made between (1) The Cornwall Council and (2)the Royal Cornwall Hospitals National Health Service Trust have been complied with or that they do not apply to the disposition"

15. TRANSFER OF LAND

- 15.1 Within a period of twenty one years from the date of this deed, the Owner shall without delay and if requested by the Council execute and complete, or procure the execution and completion by all necessary parties of, a transfer to the Council of the Dedication Land with full title guarantee.
- 15.2 The transfer of the Land shall be free from encumbrances, other than those created prior to the date of this deed (with the exception of any purely financial charge), which are consistent with the use of or the proper management and maintenance of the Dedication Land for highway purposes.
- 15.3 The Council shall pay the Owner $\pounds 1$ consideration for the transfer of the Dedication Land and shall meet the Owner's proper and reasonably incurred legal fees in transferring the Dedication Land.

15.4 The Owner consents to the Council applying to the Chief Land Registrar for entry of notice of the option contained in this clause 15 in the Charges Register of the Land.

16. DISPUTE RESOLUTION

- 16.1 An Expert is a person appointed in accordance with this clause 16 to resolve any dispute or difference arising between the parties hereto touching or concerning any matter or thing arising out of this deed (other than a dispute or difference touching or concerning the meaning or construction of this deed).
- 16.2 The parties shall agree on the appointment of an independent Expert and shall agree with the Expert the terms of his appointment.
- 16.3 If the parties are unable to agree on an Expert or the terms of his appointment within seven days of either party serving details of a suggested expert on the other, either party shall then be entitled to request the President for the time being of the Institute of Highway Engineers to appoint an Expert being a Fellow of the Institute of Highway Engineers with experience in highway works, dedication and adoption agreements under the Highways Act 1980.
- 16.4 The Expert is required to prepare a written decision and give notice (including a copy) of the decision to the parties within a maximum of three months of the matter being referred to the Expert.
- 16.5 If the Expert dies or becomes unwilling or incapable of acting, or does not deliver the decision within the time required by this clause then:
 - either party may apply to President for the time being of the Institution of Civil Engineers to discharge the Expert and to appoint a replacement Expert with the required expertise; and
 - (b) this clause shall apply to the new Expert as if he were the first Expert appointed.
- 16.6 All matters under this clause must be conducted, and the Expert's decision shall be written, in the English language.
- 16.7 The parties are entitled to make written submissions to the Expert and will provide (or procure that others provide) the Expert with such assistance and documents as the Expert reasonably requires for the purpose of reaching a decision.
- 16.8 To the extent not provided for by this clause, the Expert may in his reasonable discretion determine such other procedures to assist with the conduct of the determination as he considers just or appropriate, including (to the extent he considers necessary) instructing professional advisers to assist him in reaching his determination.
- 16.9 Each party shall with reasonable promptness supply each other with all information and give each other access to all documentation and personnel and/or things as the other party may reasonably require to make a submission under this clause.

- 16.10 The Expert shall act as an expert and not as an arbitrator.
- 16.11 The Expert's written decision on the matters referred to him shall be final and binding on the parties in the absence of manifest error or fraud.
- 16.12 The Expert's fees and any costs properly incurred by him in arriving at his determination (including any fees and costs of any advisers appointed by the Expert) shall be borne by the parties in such proportions as the Expert shall direct and equally in the absence of direction.
- 16.13 All matters concerning the process and result of the determination by the Expert shall be kept confidential among the parties and the Expert.
- 16.14 Each party shall act reasonably and co-operate to give effect to the provisions of this clause and otherwise do nothing to hinder or prevent the Expert from reaching his determination.

17. LOCAL LAND CHARGE

The Council shall procure the registration of this deed in the Register of Local Land Charges in accordance with the provisions of Section 9 of The Cornwall County Council Act 1971 and Section 33 of the Local Government (Miscellaneous Provisions) Act 1982.

18. GOVERNING LAW

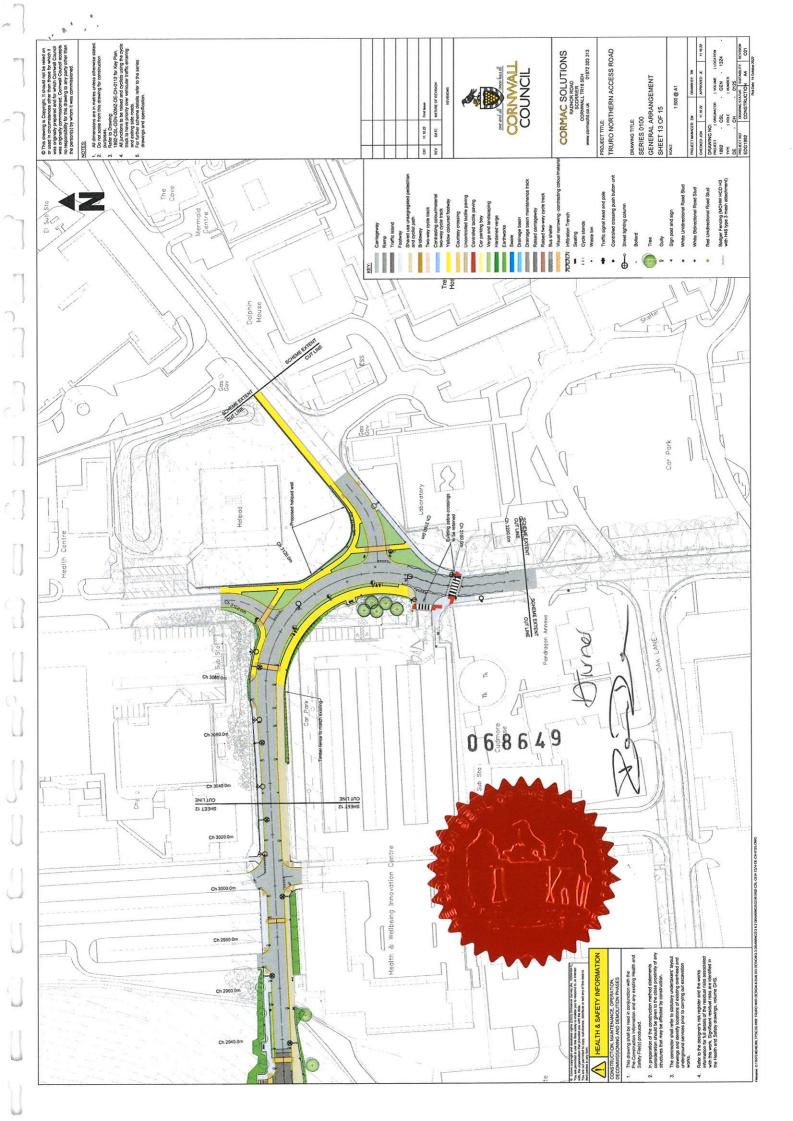
This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England.

19. JURISDICTION

- 19.1 Each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this deed or its subject matter or formation (including non-contractual disputes or claims).
- 19.2 This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

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



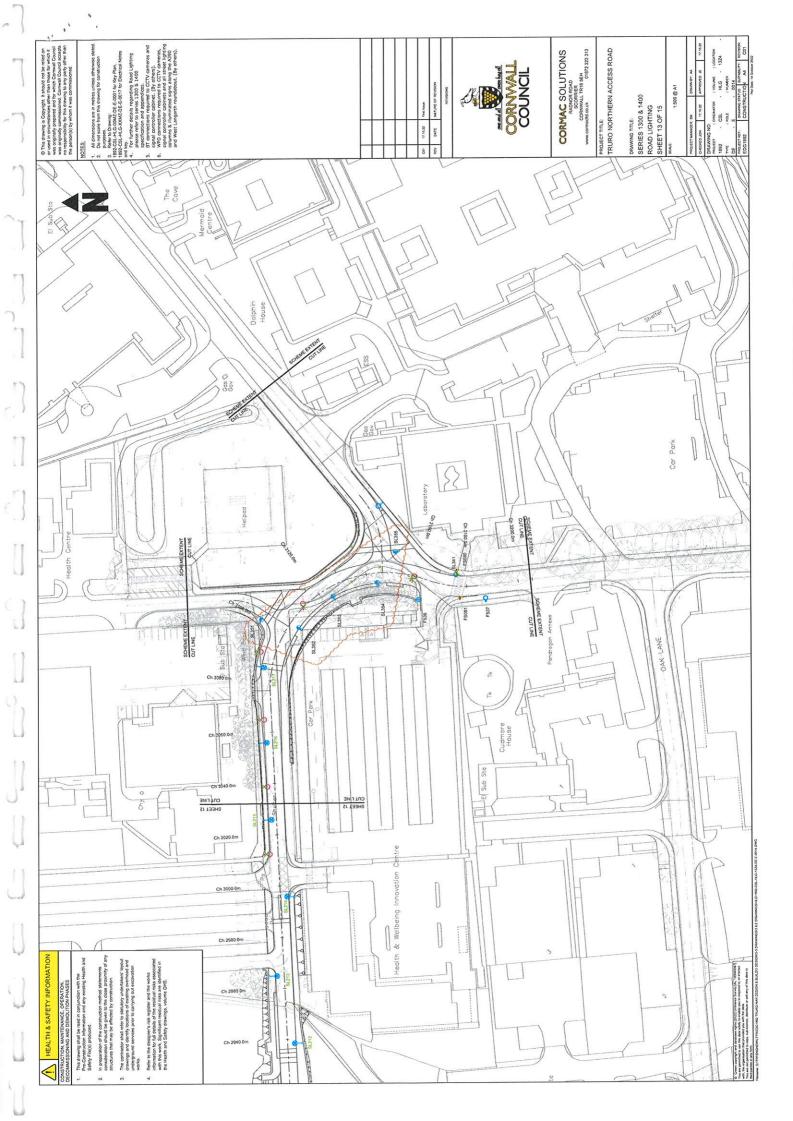


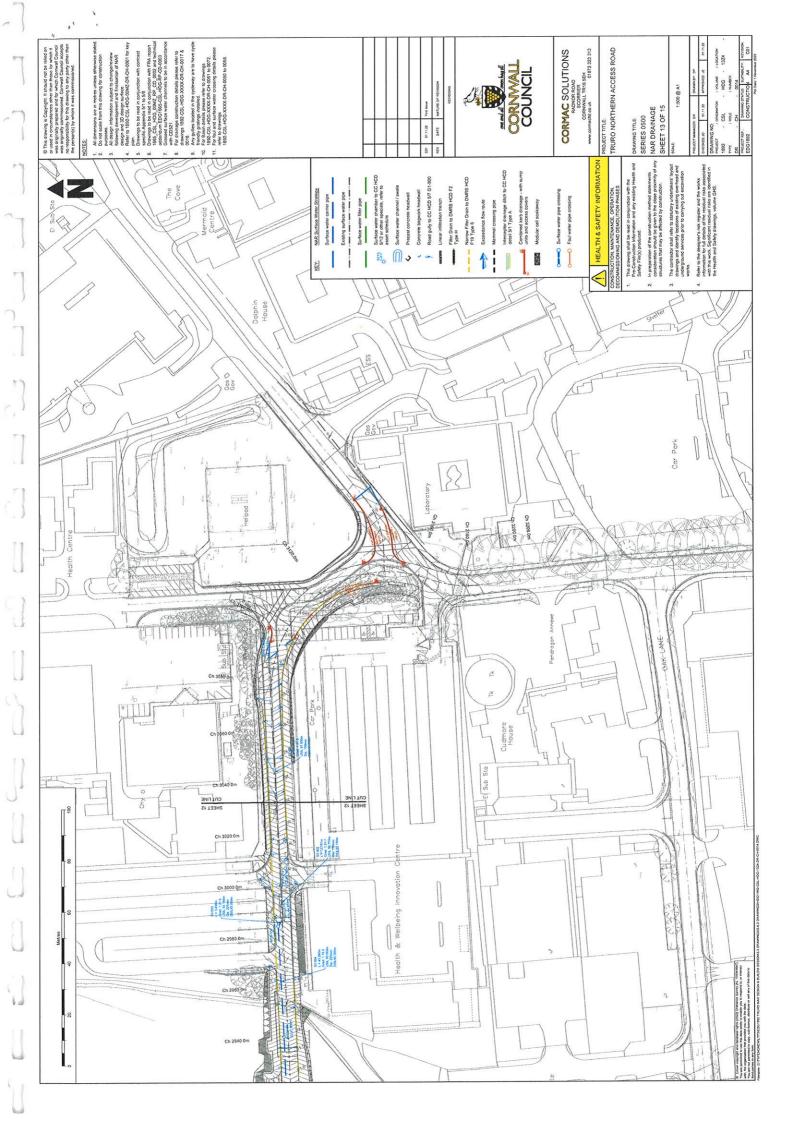
Appendix 1 - Programme

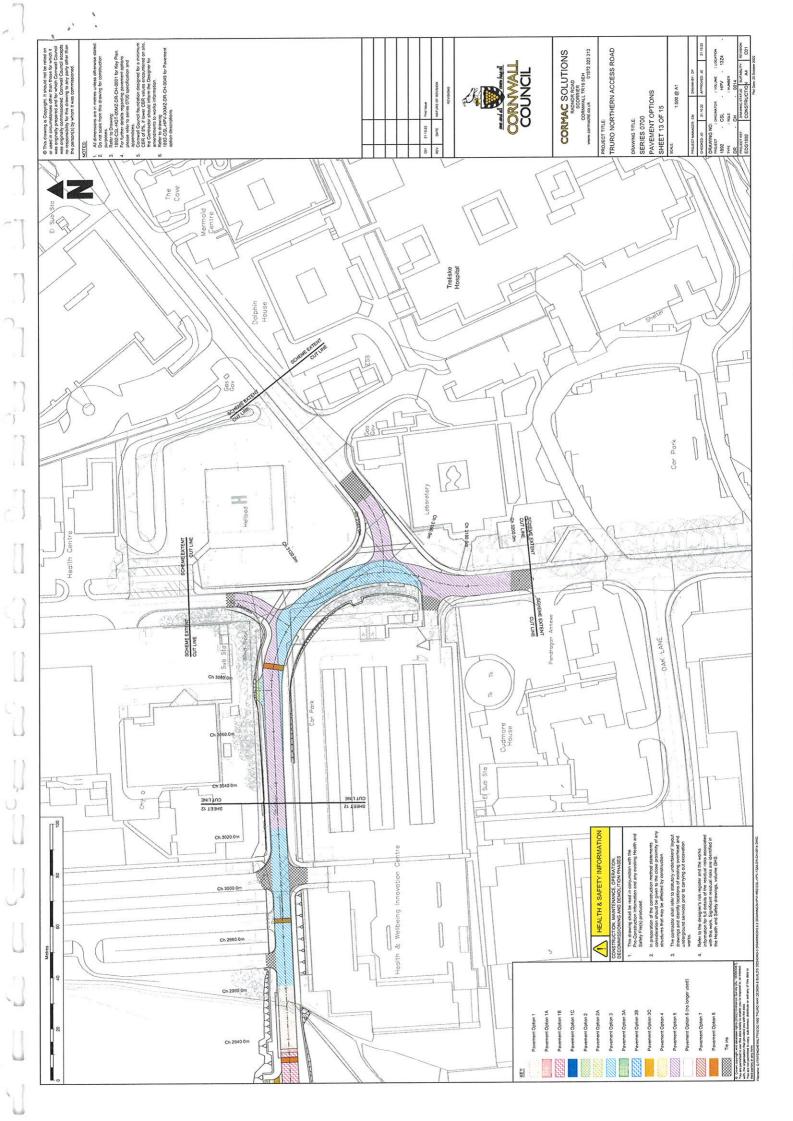
Works to take place between February 2023 and May 2025 as more particularly set out in the Construction Programme.

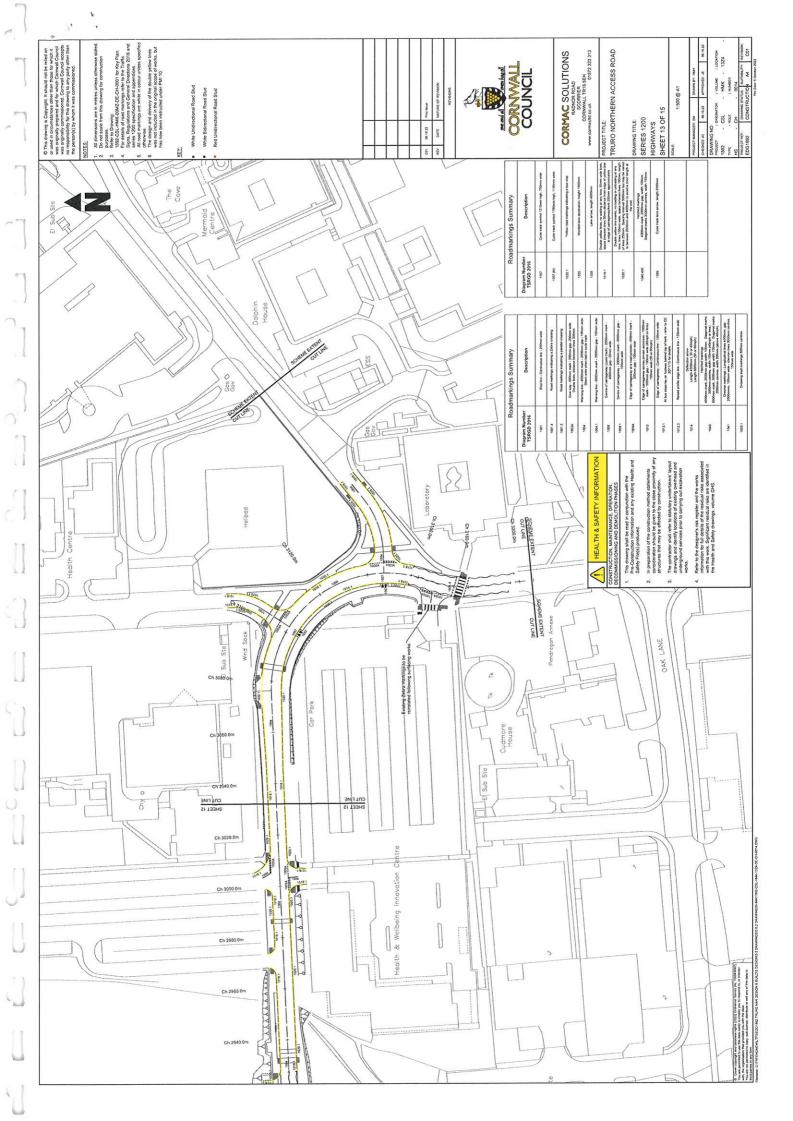
Appendix 2 - Specification

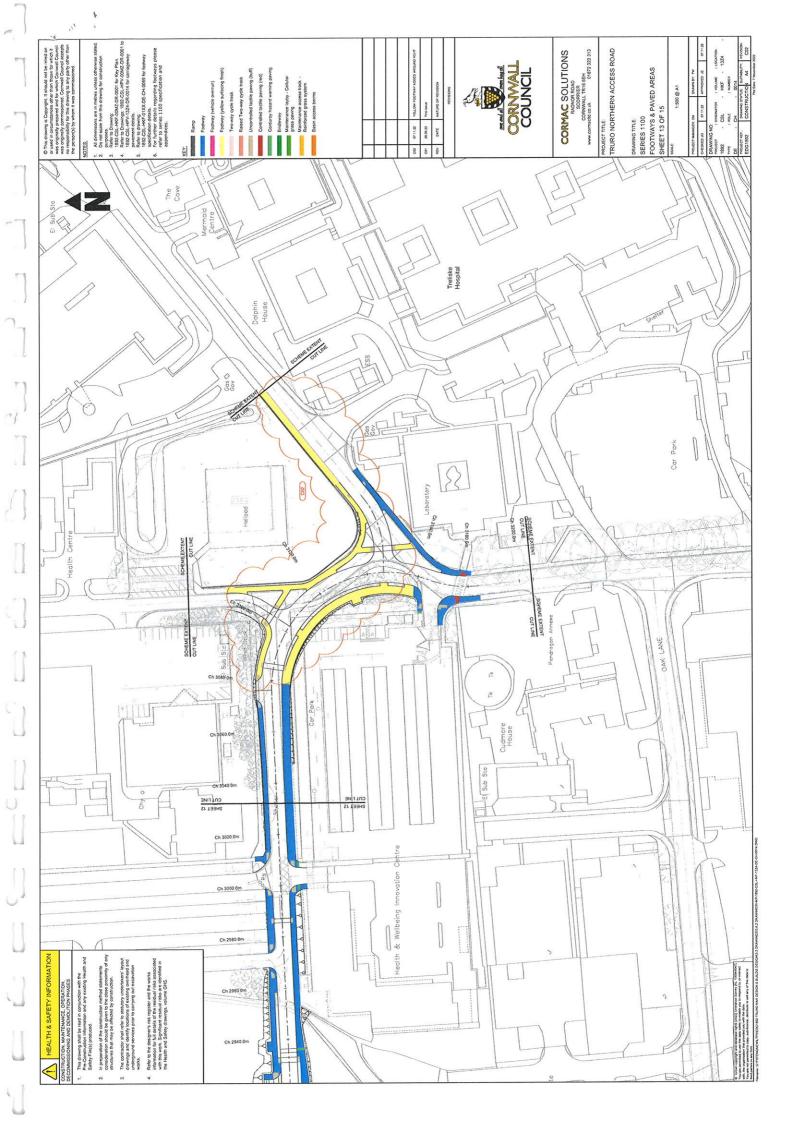
- DfT Specification for Highway Works
- Consistent with the specification as for the Northern Access Road to be constructed pursuant to planning permission ref PA20/09631 (as may be amended or varied over time)
- The Council shall maintain accesses to the Owner's operations at all time
- The council shall adopt all reasonable mitigation measures, to ensure the continued, safe operation of the search and rescue helipad and ambulance services to and from the Retained Land and the Owner's wider operations











Appendix 3 Works

- 1. All Highway drainage including sustainable drainage systems, basins and ponds
- 2. All kerbs and kerb foundations including lowering at vehicle crossings and pedestrian crossings
- 3. Footways and shared use paths including sub-base, binder course and surface course surfacing..
- 4. Carriageway sub-base, road base, binder course and surface course and vehicle crossings (where appropriate) and any supporting structures thereto
- 5. All chamber covers to be set flush with finished level
- 6. Demarcation of sight lines and clearance of visibility splays
- 7. Streetlights erected, energised and certified.
- 8. Structures
- 9. Road markings
- 10. Traffic signs
- 11. Traffic systems equipment (where appropriate)
- 12. Ancillary street furniture including benches and bollards
- 13. Retaining structures including walls and hedges
- 14. All other works described in the General Arrangement Drawing and Specification
- 15. As built records including CCTV drainage surveys

Signed as a Deed by

THE ROYAL CORNWALL HOSPITALS NATIONAL HEALTH SERVICE TRUST

In the presence of:

Witness signature

Witness name (BLOCK CAPITALS)

Witness Address

Executed as a Deed by

THE CORNWALL COUNCIL

Whose common seal was hereunto

Affixed in the presence of:

Authorised officer

2000

ROBIN JONES

ROYAL CORNWALL HOSPITALS NHS TRUST

TRELISKE TRURO



DIUNU VICTORIA TURNER

