

THIS DEED is made the *seventh (7th)* day of *February* 2006
BETWEEN

1. **MIDMAR ENERGY ONSHORE LIMITED of 16** Albyn Place Aberdeen AB10 1PS (hereinafter called "the Applicant")
2. **WEST SUSSEX COUNTY COUNCIL** of County Hall Chichester West Sussex PO18 9DN (hereinafter called "the County Council")

WHEREAS

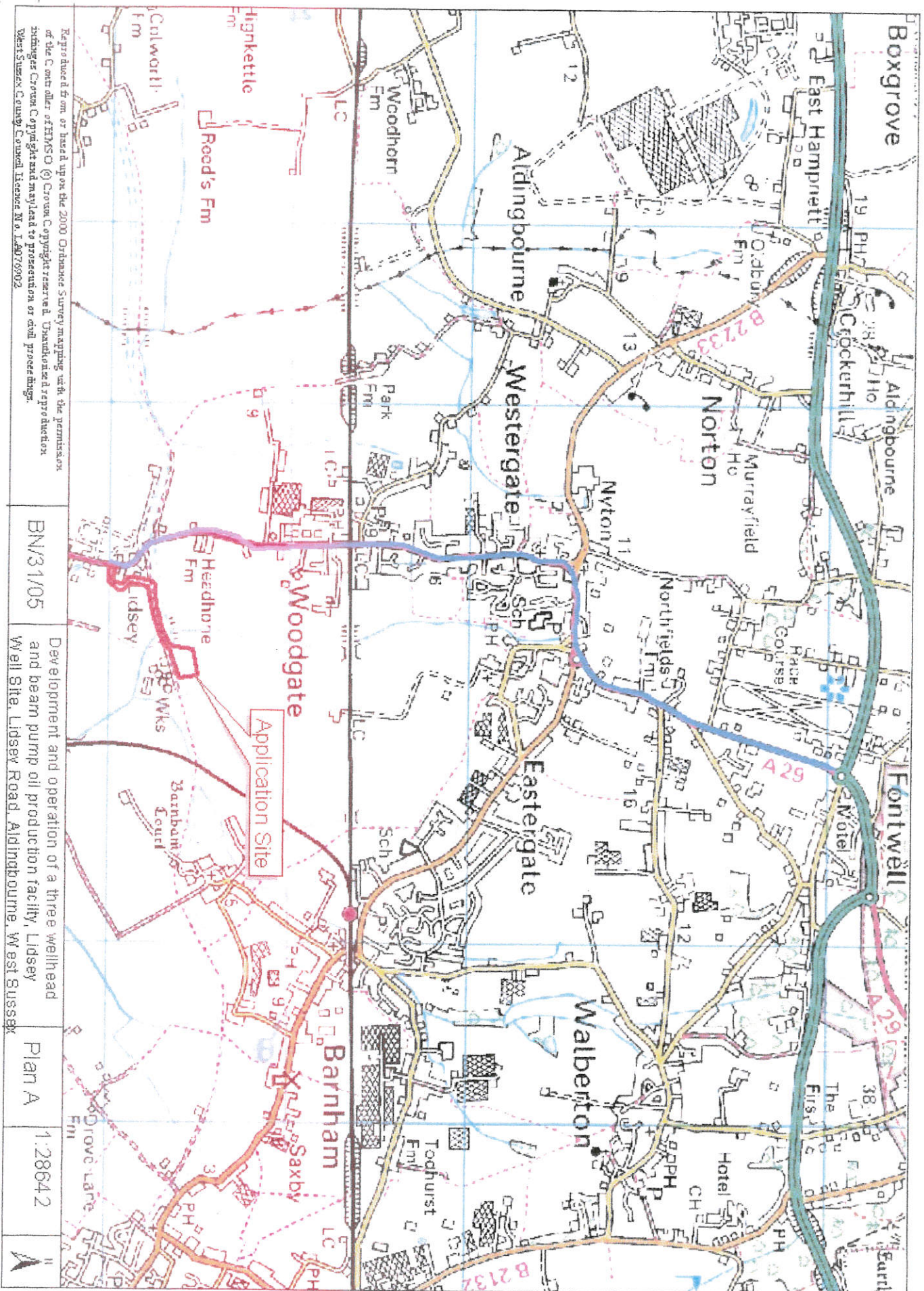
- 1.1 The County Council is the Local Planning Authority and Highways Authority for the area within which the Site is situated and by whom the obligations contained in this Deed are enforceable
- 1.2 The Applicant has made the Planning Application to the County Council and is proposing to carry out the Development
- 1.3 The Applicant has agreed with the County Council that the HGVs involved in the carrying out of the Development will follow a prescribed route and have agreed to enter into this Agreement with the County Council
- 1.4 The operative provisions of this Deed are conditional inter alia upon the County Council granting Planning Permission
- 1.5 This Agreement is made by way of Deed pursuant to Section 106 of the Act and is a planning obligation for the purposes of that section

NOW THIS DEED WITNESSES as follows:


1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Deed the following words and expressions shall where the context so requires or admits have the following meanings:

"Act" means the Town and Country Planning Act 1990 and all subsequent revisions and amendments



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BN/31/05	Development and operation of a three wellhead and beam pump oil production facility, Lidsey Well Site, Lidsey Road, Aldingbourne, West Sussex	Plan A	1:28642	
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"Development" means development (within the meaning of section 56 of the Act) under the provisions of the Planning Permission

"HGV" means Heavy Goods Vehicles Class 1 and 2 (as defined in the 1996 COBA Manual) or any vehicle which exceeds that definition referred to in the permission as HGVs

"Plan A" means the plan annexed to this Deed and labelled as Plan A

"Planning Application" means the application for planning permission number BN/31/05

"Planning Permission" means full planning permission granted by the Council pursuant to the Planning Application in the form of the draft permission ~~appended at Schedule 2~~

"Site" means the land at Lidsey Oil Exploration Site, Lidsey which is shown for identification purposes edged red on Plan A

"Unconditional Date" means the earliest date on which both of the following have occurred:

- (i) the Planning Permission has been granted by the Council and
- (ii) there has been commencement of the Development

1.2 Words importing the singular includes the plural and vice versa

1.3 The expressions "the County Council" and "the Applicant" shall include their respective successors in title and assigns statutory or otherwise

2. STATUTORY PROVISIONS

2.1 This agreement is made pursuant to Section 106 of the Act Section 111 of the Local Government Act 1972 and all other powers enabling the parties hereto

2.2 This agreement shall have full force and effect from the date hereof

3. COVENANTS

- 3.1 Subject always to Clause 3.3 the Applicant covenants with the Council to observe and perform the covenants set out in the First Schedule
- 3.2 No person shall be liable for breach of any covenant contained in this Deed after he or it shall have parted with all interest in the Site or the part in respect of which such breach occurs but without prejudice to liability for any subsisting breach of contract prior to parting with such interest
- 3.3 The covenants contained in the First Schedule of this Deed shall take effect only from the Unconditional Date
- 3.4 If the Planning Permission expires before the Unconditional Date or shall at any time be revoked this Deed shall forthwith determine and cease to have effect
- 3.5 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with any planning permission other than the Planning Permission granted (whether or not on appeal) after the date of this Undertaking
- 3.6 Nothing in this Deed shall require the performance of any obligation whatsoever in on or under land outside the ownership of the party to perform the obligation unless such land shall be within the public highway and/or made available for the performance of that obligation at no cost to the party to perform its obligations
- 3.7 This Deed is a local land charge and shall be registered as such provided that if at any time the obligations of the Applicant under this Deed for any reason do not apply further the Council shall upon the written request of the Applicant issue written confirmation thereof and thereafter use its reasonable endeavours to cancel all related entries in the Register of Local Land Charges

4. DISPUTES

- 4.1 In the event of a dispute between the parties to this Deed (other than a dispute relating to a matter of Law) the parties agree that the matter in dispute will on the application of any of them be referred to an Engineer acting as an expert (hereinafter referred to as "the Expert") who shall be a member of the

Institution of Civil Engineers with not less than 10 years relevant experience whose identity will be agreed by the parties or in default of agreement appointed by or on behalf of the President of the Institution of Civil Engineers

4.2 It is further agreed that:

- a) the determination of the Expert will be final and binding on the parties save in the case of manifest error
- b) the parties shall be entitled to make representation and counter representations to the Expert in accordance with such timetable as the Expert shall direct.
- c) The Expert's costs and the costs of his appointment shall be borne in such proportions as he may direct and if the Expert shall fail to make any direction as to costs they shall be borne by the Applicant

4.3. For the avoidance of doubt it is hereby agreed and declared that:-

- (a) nothing in this Agreement shall be construed as expressly providing a right for any third party within the meaning of the Contracts (Rights of Third Parties) Act 1999; and
- (a) nothing in this Agreement is intended to confer any benefit on any third party (whether referred to herein by name class description or otherwise) or any right to enforce a term contained in this Agreement

5. COSTS

5.1 The Applicant covenants with the County Council to pay the reasonable legal costs of the County Council involved in the preparation and execution of this Agreement on the completion of this Agreement

IN WITNESS whereof this instrument has been duly executed as a Deed by the parties hereto the day and year first before written

THE FIRST SCHEDULE

Covenants given by the Applicant

1. **Notice**

To serve written notice upon the Council advising it of the Unconditional Date within fourteen days of its occurrence

2 **HGV Routing**

From the Unconditional Date to use best endeavours to implement and put in place the arrangements set out below to assist in the amelioration of traffic impacts emanating from the Development ("the Arrangements"):

- 2.1 ensure that all HGV entering or leaving the site only use the route marked blue on Plan A using the A29 to reach and exit the A27 at the roundabout directly northeast of the Fontwell Racecourse


3. **Enforcement**

In order to achieve the Arrangements the Applicant shall provide to all drivers of HGV on their first visit to the Site following the Unconditional Date (and at reasonable intervals thereafter) written details and as appropriate reminders of the Arrangements, and will post notices advising of the Arrangements in prominent and clearly visible positions at the HGV Access to the Site

THE SECOND SCHEDULE
The draft Planning Permission

SIGNED AS A DEED ON BEHALF of
THE COMMON SEAL of
MIDMAR ENERGY ONSHORE LIMITED
Was affixed to this Deed
in the presence of:-

CHARLOTTE WHEATLEY

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)

J. W. J. REDMAN

THE COMMON SEAL of
WEST SUSSEX COUNTY COUNCIL
was affixed to this Deed
in the presence of:-

12/3/06 

