

RECEIVED

18 APR 2008

SWAFFHAM TOWN COUNCIL

W.F.S

W. F. SMITH & CO

SOLICITORS

WEBSITE: www.wfsmith.co.uk

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25 MARKET PLACE  
DEREHAM  
NORFOLK  
NR19 2AX

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DX: 45052 DEREHAM

Mr R Bishop  
Swaffham Town Council  
Town Hall  
4 London Street  
Swaffham  
Norfolk, PE37 7DQ

Our Ref: AGHS/RSS/VE/rt/Swaffham TC  
Contact: Mr A G H Stokes  
Date: 17<sup>th</sup> April 2008

Dear Richard

**Re: Land at Swaffham**

I have now heard from the Solicitors for ALIH (Farms) Limited confirming that a Deed of Grant of Easement of right of way and other rights has been granted by Breckland District Council on the 14<sup>th</sup> April last which will have the effect of enabling you to access the land you are acquiring and to use drainage facilities.

I enclose a copy of the Deed for your information.

I would be grateful if you would cast your eye over it and would contact me if there is any part of it which troubles you in any way.

There are in essence two rights of way being granted, one over existing private roads (Brocks Road, Green Way and Turbine Way) shown coloured green on the second plan, and a further right of way over land hatched red on the third plan. Schedule 2 provides that ALIH Farms shall construct a road way on the latter piece of land within 2 years of a qualifying planning permission i.e. planning permission for the development of the neighbouring land by ALIH for commercial use.

The right of way your council will enjoy is fixed in part to the use of the land as a swimming pool or other community sports facility (or agriculture). If there is an intention to use it for other purposes then Breckland is entitled to 45% of the development gain (Schedule 4).

Subject to any questions you may have it appears we are now in a position to proceed to Contract and I would be grateful if you would let me know that you are now content to proceed.

Yours sincerely

A G H Stokes



Partners: A.G.H. STOKES P.S. LANE B.A. (Hons)  
Consultant: R.S. SHARP LL.B.  
Solicitors: DIANE FAIRLEY JAKKI UPTON  
F.INST.L.Ex. TERESA TAYLOR



OFFICES AT: DEREHAM (01362) 852900 · WATTON (01953) 880800

This firm is regulated by the Solicitors Regulation Authority

DATED

14 April

2008

(1) BRECKLAND DISTRICT COUNCIL

and

(2) ALIH (FARMS) LIMITED

---

DEED OF EASEMENT  
relating to  
Land at Ecotech Business Park Swaffham Norfolk

---

Steeles (Law) LLP  
3 Norwich Business Park  
Whiting Road Norwich  
Norfolk

Tel No: 01603 598000  
Fax No: 01603 625 890

Ref: RAF(MAR) 4130-381-1

**THIS DEED** made 14 April 2008  
**BETWEEN:**

- (1) **the Grantor: BRECKLAND DISTRICT COUNCIL** of Elizabeth House  
Walpole Loke Dereham NR19 1EE
- (2) **the Grantee: ALIH (FARMS) LIMITED** (Company Number 1161464) whose  
registered office is at 1 Buckingham Place London SW1E 6HR

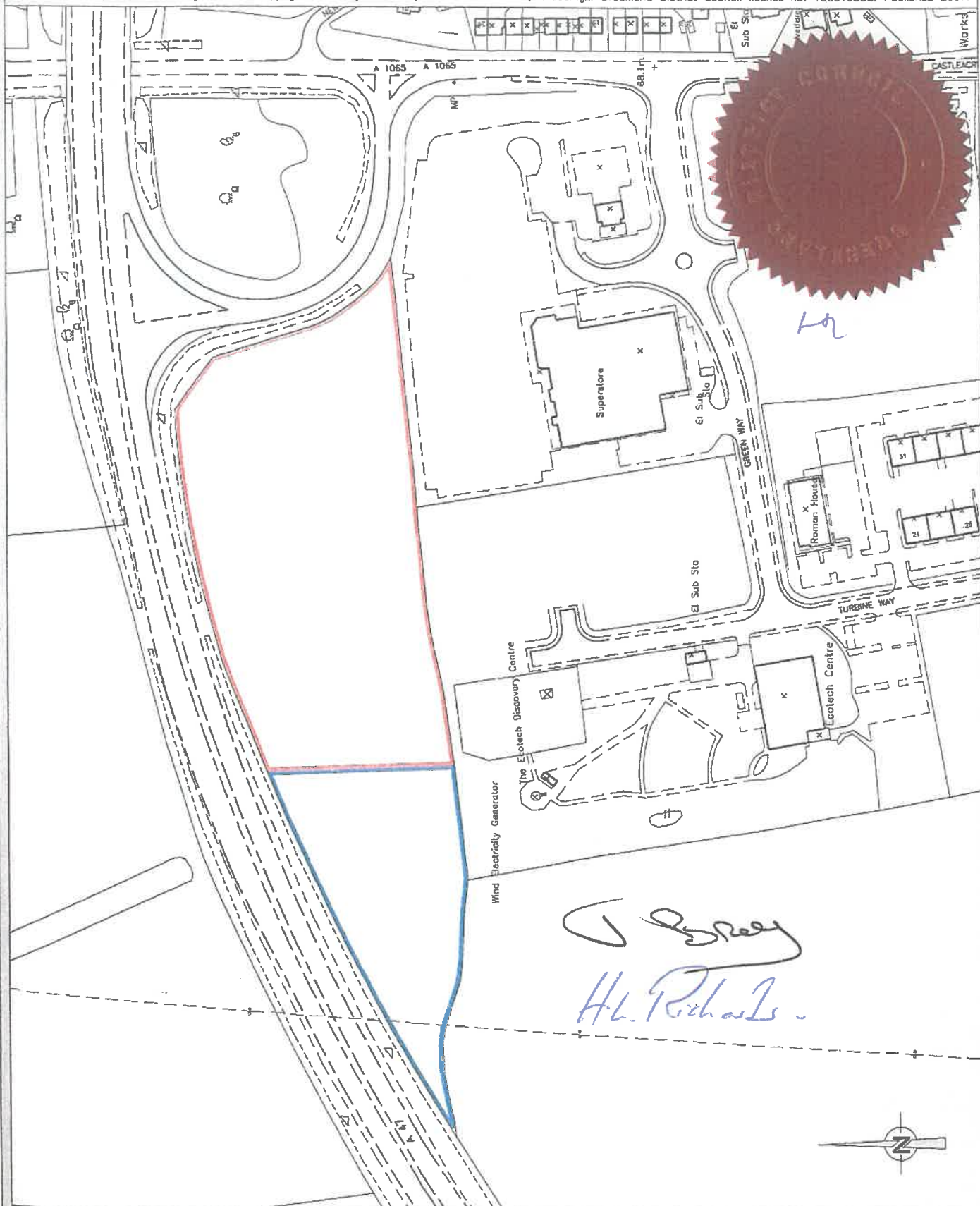
**WITNESSES** as follows:

1. **Definitions**

In this Deed where the context permits the following expressions have the following meanings:

- |  |  |
|--|--|
| <b>"the Blue Land"</b>                 | means the land shown edged with Blue on Drawing Number F90SW1/E35 Revision A annexed to this Deed, being part of the land comprised in the Grantee's Title Number(s) |
| <b>"the Red Land"</b>                  | means the land shown edged with Red on Drawing Number F90SW1/E35 Revision A annexed to this Deed, being part of the land comprised in the Grantee's Title Number(s)  |
| <b>"the Estate Roads"</b>              | means the roads shown coloured green on Drawing Number F90SW1/E36 annexed to this Deed being part of the land comprised in the Estate Roads Title Number             |
| <b>"the Estate Roads Title Number"</b> | means NK89264  |
| <b>"the Grantee's Land"</b>            | means the Red Land and the Blue Land and each and every part thereof   |
| <b>"the Grantee's Title Number"</b>    | means NK185438   |
| <b>"the Property"</b>                  | means the land shown hatched orange on Drawing Number F90SW1/E34 annexed to  |

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Asset Management  
 Elizabeth House  
 Walpole Lake  
 Dereham  
 Norfolk  
 NR19 1EE

**Breckland**  
THE DISTRICT COUNCIL

Tel: 01362 656870 Fax: 01362 656877

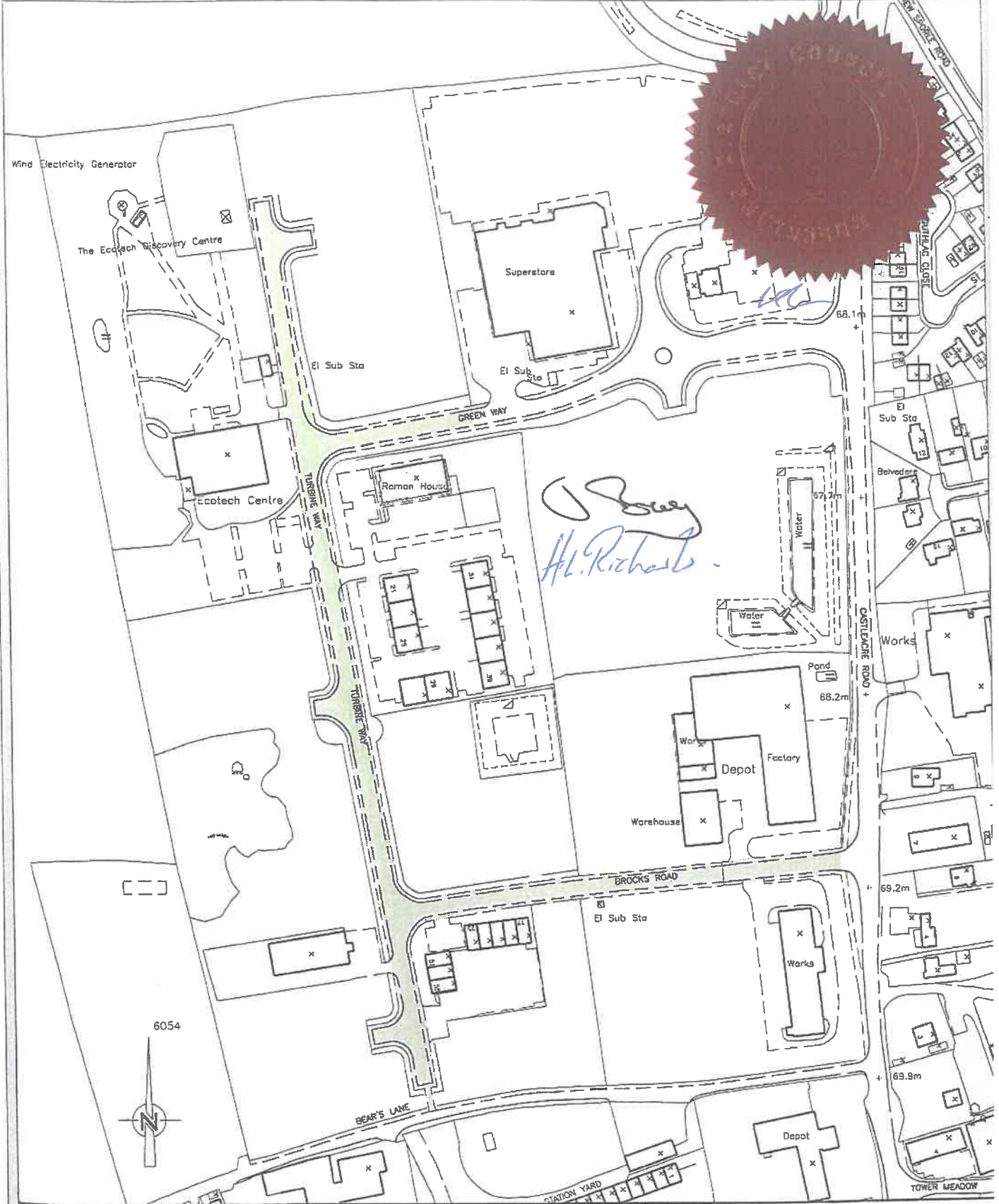
TITLE  
**LAND AT TURBINE WAY  
 ECOTECH BUSINESS PARK  
 SWAFFHAM**

DRAWING DETAILS

**SITE PLAN**

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PRODUCED BY	DATE	SCALES
PRD	Dec 2007	1:2500
DRAWING No.		Rev.
F90SW1	E35	A

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**Breckland Council**



**Asset Management**  
 Elizabeth House  
 Walpole Loke  
 Dereham  
 Norfolk  
 NR19 1EE

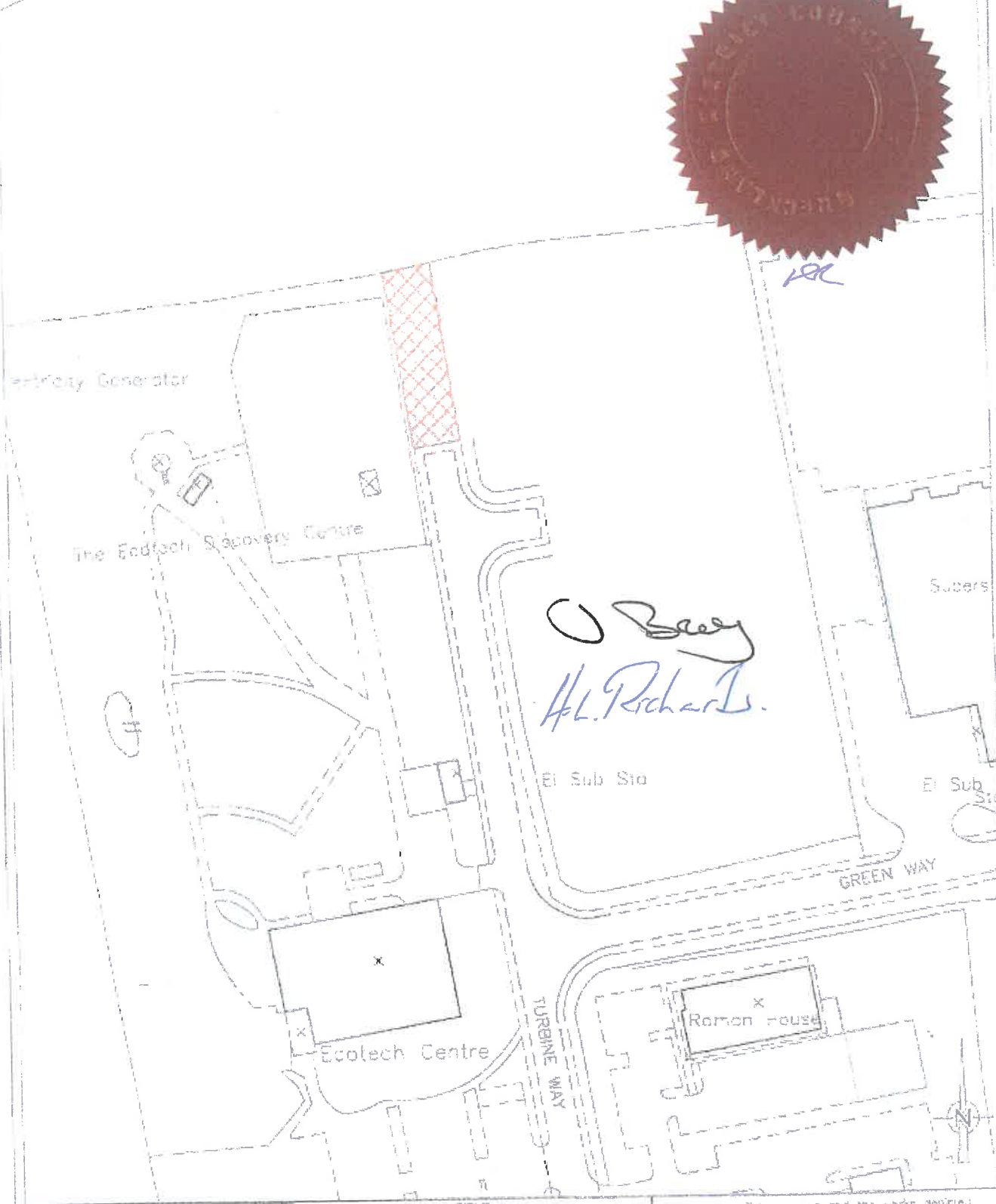
Tel: 01362 695333 Fax: 01362 656877

TITLE  
**ECOTECH BUSINESS PARK  
 SWAFFHAM**  
 DRAWING DETAILS  
**ROAD IN BDC OWNERSHIP**

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PRODUCED BY	DATE	SCALES
PRD	Feb 2007	1:2500
DRAWING No.		Rev.
<b>F90SW1</b>	<b>E36</b>	

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**Breckland Council**  
 Asset Management  
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 Tel: 01302 895333 Fax: 01302 450777

TITLE  
**LAND AT TURBINE WAY  
 ECOTECH BUSINESS PARK  
 SWAFFHAM**  
 DRAWING DETAILS  
**SITE PLAN**

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PRODUCED BY	DATE	SCALE
PRL	Feb 2007	1:1250
DRAWING No.		REV.
F90SW1		E34

- “the Property’s Title Number”
- “Qualifying Planning Permission”
- “Qualifying Planning Permission Date”
- “Review Period”
- this Deed, being part of the land comprised in the Property’s Title Number means NK130226
- means a full planning permission authorising the development of the Red Land for commercial use
- means the latest of the following dates:
- (i) the date of the grant of a Qualifying Planning Permission acceptable to the Grantee
  - (ii) the date of the expiry of the Review Period without the institution of Review Proceedings or (if Review Proceedings shall be commenced during the Review Period their final determination leaving in place a Qualifying Planning Permission)
- means
- (i) in the case of any decision by the Secretary of State on any reference under Section 77 of the Planning Act or on any appeal under Section 78 of the Town and Country Planning Act 1990 the period of six weeks from the date of his decision letter; and

- (ii) in any other case the period of three months from the date on which written notice of its decision is issued by the planning authority

**“Review Proceedings”**

means all or any other following as the case may be in relation to or consequent upon a planning application or a Qualifying Planning Permission:-

- (i) any application for judicial review under Part 54 of the Civil Procedure Rules or any such other challenge to the grant of or resolution to grant a Qualifying Planning Permission including any application pursuant to Section 7 of the Human Rights Act 1998 or otherwise;
- (ii) any application pursuant to Section 288 of the Town and Country Planning Act 1990
- (iii) any appeals to a higher court following a judgment of a lower court in respect of any application referred to in paragraphs (i) and (ii) of this definition
- (iv) any reconsideration by the planning authority or the Secretary of State of any application referred to in paragraphs (i) and (ii) of this



definition upon remission to it  
or him

**“the Rights”**

means the rights set out in the schedule to  
this Deed

**“Services”**

means the passage and running of water  
soil gas electricity telecommunications and  
other services

**“Service Installations”**

means any drains channels sewers pipes  
wires cables aerials watercourses gutters  
soakaways and other similar installation

**2. Grant of the Rights**

In consideration of the payment of £1.00 (one pound) paid by the Grantee to the Grantor, receipt of which is acknowledged, the Grantor grants the Rights to the Grantee (which shall include its successors in title to the Grantee's Land) in fee simple with full title guarantee but subject to the performance by the Grantee of the stipulations contained in the Second Schedule (“the Stipulations”) and the covenant contained in the Third Schedule (“the Covenant”)

**3. Indemnity**

The Grantee covenants with the Grantor to keep the Grantor and his successors in title to the Property indemnified from and against any act, loss, damage or liability suffered by the Grantor or his successors in title resulting from the exercise of the Rights performance of the Stipulations or breach of the Covenant.

**4. Perpetuity period**

It is agreed and declared that the Rights shall be exercisable only if they or their subject matter come into existence within a period of 80 years from the date of this Deed, which shall be the perpetuity period applicable to this Deed.

**5. Agreement as to applications**

The Grantor and the Grantee agree to apply to the Land Registry for entry of notice of the Rights in the Charges Register of Property's Title Number(s) and for the entry

of the Rights in the Property Register of Grantee's Title Number(s) as appurtenant to the land in that title.

6. **Consent to noting of rights against the Property**

The Grantor consents to notice of the Rights being noted against the Property's Title Number(s)

7. **Grantor's costs**

The Grantee shall on the date hereof pay to the Grantor the sum of £450 in respect of the Grantor's legal costs in the preparation and execution of this Deed.

**IN WITNESS** of which the parties have executed this Deed as a deed and it is delivered on the date first set out above

The Common Seal of **BRECKLAND** )  
**DISTRICT COUNCIL** was affixed in the )  
presence of: )



**For and on behalf of  
Head of Legal Services**



Executed as a Deed by )  
**LANDMATCH LIMITED** acting by: )

Director 

Director/Secretary 

## SCHEDULE 1

### The Rights

#### 1. Right of way

- 1.1. Subject to the Grantee paying a proper proportion (to be determined by the Grantor's Surveyor acting reasonably) of the costs of maintaining and repairing the Property full right and liberty for the Grantee, his successors in title as owners or occupiers for the time being of the Red Land and all persons authorised by him or them, in common with the Grantor and all other persons having the like right at all times and for all purposes in connection with the use of the Red Land only to pass and re-pass with or without vehicles to and from the Red Land or any part of it over and along the Property
- 1.2. Subject to the Grantee paying a proper proportion (to be determined by the Grantor's Surveyor acting reasonably) of the costs of maintaining and repairing the Property full right and liberty for the Grantee, his successors in title as owners or occupiers for the time being of the Blue Land and all persons authorised by him or them, in common with the Grantor and all other persons having the like right at all times and for the use of the Blue Land as a swimming pool or other community sports facility with ancillary activities or for agriculture or for grazing to pass and re-pass with or without vehicles to and from the Blue Land (whether or not via the Red Land) or any part of it over and along the Property **PROVIDED ALWAYS THAT** when the Grantee has observed and performed the obligations on its part set out in Schedule 4 hereof such right to access to Blue Land over and along the Property shall be for all purposes

#### 2. Right of Way over existing estate

Full right and liberty for the Grantee, his successors in title as owners or occupiers for the time being of the Grantee's Land, and all persons authorised by him or them, in common with the Grantor and all other persons having the like right at all times to pass and re-pass over the Estate Roads subject to the Grantee's paying a proper proportion (to be determined by the Grantor's Surveyor whose determination shall be final and binding on the Grantee) of

the costs of maintaining and repairing the Estate Roads until they are taken over as a highway maintainable at the public expense and for the avoidance of doubt the Grantor will on request from the Grantee or its successors in title remove any bollards or other obstruction preventing or hindering passage over the Estate Road

**3. Right of passage of services through existing and future conduits**

The right for the Grantee and his successors in title as owners or occupiers for the time being of the Grantee's Land or any part of it to free and uninterrupted passage and running of services, to and from the Grantee's Land and each and every part of it and any buildings for the time being on the Grantee's Land through, over and along the Service Installations, that are now laid or may be laid within the Perpetuity Period in, over or under the Property or the Estate Roads

**4. Rights to Construct Road and Services**

- 4.1. The right for the Grantee and his successors in title as owners and occupiers for the time being of the Grantee's Land or any part of it or their servants, agents or contractors or other persons authorised by it or them to enter onto the Property, the Estate Roads and such surrounding area belonging to the Grantor as is necessary in order to construct on the Property a roadway, install Service Installations, and thereafter to maintain the same and to carry out the obligations of the Grantee set out in Schedule 2 hereof
- 4.2. The right for the Grantee and his successors in title as owners and occupiers for the time being of the Grantee's Land or any part of it or their servants, agents or contractors or other persons authorised by it or them to enter onto the Estate Roads and such surrounding area belonging to the Grantor as is necessary in order to connect into Service Installations making good with all reasonable speed any damage caused

## SCHEDULE 2

### The Stipulations

1.
  - 1.1. The Grantee shall within 2 years of the Qualifying Planning Permission Date construct and thereafter maintain to the standard of a highway maintainable at public expense a roadway ("the Roadway") over the Property
  - 1.2. The Grantee shall on or before commencement of the construction referred to in 1.1 above make a payment of £94,000.00 (Ninety Four Thousand Pounds) plus Value Added Tax thereon to the Grantor
2. In relation to the Roadway the Grantee shall:
  - 2.1. include within the Roadway surface water and foul water drainage linking to the existing surface water and foul water drainage in Turbine Way
  - 2.2. provide such street lighting as is appropriate to bring the Roadway to a standard of a highway maintainable at public expense
  - 2.3. install a four way duct across the Roadway in such position as the Grantee may reasonably stipulate

**SCHEDULE 3**  
**Grantee's Covenants**

The Grantee must not obstruct the Roadway, by vehicles, deposit of materials or otherwise, or permit or suffer anyone using the Grantee's Land expressly or impliedly with his permission or under his control to do so

## SCHEDULE 4

### Grantee's Obligations

1. In this Schedule where the context permits (and in addition to the Definitions contained in clause 1 of this Deed) the following expressions have the following meanings:

**“Uplift Payment”**

means a payment calculated in accordance with the following formula:-

$[(X-Y) \times 45\%] - B$  where

X=the New Use Value and

Y=the Old Use Value and

B=the Uplift Costs

**“New Use Value”**

means where the Blue Land has the benefit of a planning permission for a New Use the open market value of the Blue Land with the benefit of that planning permission on the assumption that that planning permission has yet to be implemented and having regard to all relevant factors and contingencies including (without limitation) the terms of that planning permission and any related planning agreements

**“Old Use Value”**

means the open market value of the Blue Land for the Old Use immediately prior to the date of the grant of a planning permission for a New Use

**“Uplift Costs”**

means all costs and expenses paid or incurred by the Grantee in connection with the obtaining of a planning permission for a New Use including (without limitation):