

DATED

28 FEBRUARY 2019

LICENCE TO OCCUPY ON SHORT TERM BASIS

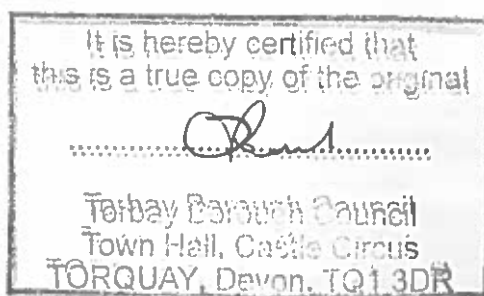
relating to the area known as land at Preston Down Road

between

The Council of the Borough of Torbay

and

Torbay Coast & Countryside Trust

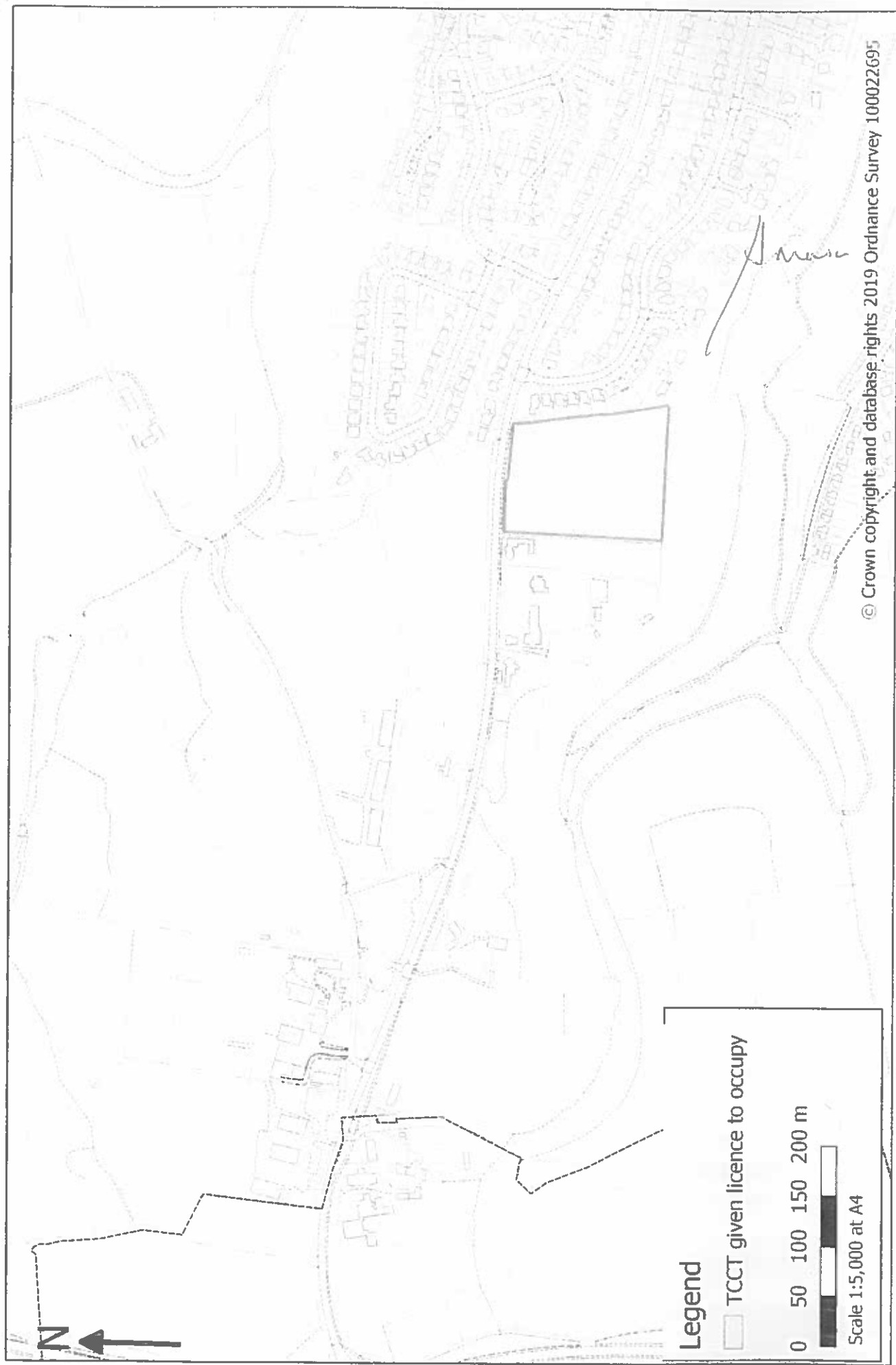




EM Plan No: EM3172
 Date: 5 October 2018
 Title: Land North & South of Preston Down Rd, Paignton

Asset No: P0953AB
 LR Title No: DN521239
 Area: 40,581.9 m²





Plan 1 - Land at Preston Down Road (PDR)

This licence is dated

28 FEBRUARY 2019.

Parties

- (1) THE COUNCIL OF THE BOROUGH OF TORBAY of Town Hall, Castle Circus, Torquay TQ1 3DR (Licensor)
- (2) TORBAY COAST & COUNTRYSIDE TRUST (registered charity number 1077561) incorporated and registered in England and Wales with company number 3757410 whose registered office is at Occombe Farm, Preston Down Road, Paignton TQ3 1RN (Licensee)

Agreed terms

1. Interpretation

The following definitions and rules of interpretation apply in this licence.

1.1 Definitions:

Common Parts: such roads, paths, entrance halls, corridors, lifts, staircases, landing and other means of access in or upon the Estate the use of which is necessary for obtaining access to and egress from the Property as designated from time to time by the Licensor.

Competent Authority: any statutory undertaker or any statutory public local or other authority or regulatory body or any court of law or government department or any of them or any of their duly authorised officers.

Designated Hours: such hours to be agreed between the Licensee and Licensor having regard to the Licensor's redevelopment of the Estate.

Estate: all that land at Preston Down Road, Paignton and shown edged red on plan EM3172 or such reduced or extended area as the Licensor may from time to time designate as comprising the Estate.

Licence Fee: a peppercorn (if demanded).

Licence Fee Commencement Date: the date of this licence.

Licence Period: the period from and including [DATE] until the date on which this licence is determined in accordance with clause 4.

Necessary Consents: all planning permissions and all other consents, licences, permissions, certificates, authorisations and approvals whether of a public or private nature which shall be required by any Competent Authority for the Permitted Use.

Permitted Use: agricultural.

1.12 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.

1.13 A **working day** is any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.

2. Licence to occupy

2.1 Subject to clause 3 and clause 4, the Licensor permits the Licensee to occupy the Property for the Permitted Use for the Licence Period during the Designated Hours in common with the Licensor and all others authorised by the Licensor (so far as is not inconsistent with the rights given to the Licensee to use the Property for the Permitted Use) together with the rights mentioned in the Schedule 1.

2.2 The Licensee acknowledges that:

- (a) the Licensor requires access to the Property at all times in connection with the proposed redevelopment of the Property;
- (b) the Licensor shall be carrying out intrusive surveys, investigations and highway works at the Property and the Licensee shall have no right to compensation for disruption as a result of the same;
- (c) the Licensee shall occupy the Property as a licensee and that no relationship of landlord and tenant is created between the Licensor and the Licensee by this licence;
- (d) the Licensor retains control, possession and management of the Property and the Licensee has no right to exclude the Licensor from the Property;
- (e) the licence to occupy granted by this agreement is personal to the Licensee and is not assignable and the rights given in clause 2 may only be exercised by the Licensee and its employees; and
- (f) without prejudice to its rights under clause 4, the Licensor shall be entitled at any time on giving not less than 14 days' notice to require the Licensee to transfer to alternative space elsewhere within the Estate and the Licensee shall comply with such requirement.

3. Licensee's obligations

The Licensee agrees and undertakes:

- (a) to pay:
 - (i) to the Licensor the Licence Fee on demand; and

- (n) to observe any rules and regulations the Licensor makes and notifies to the Licensee from time to time governing the Licensee's use of the Property and the Common Parts;
- (o) to leave the Property in a clean and tidy condition and to remove the Licensee's furniture equipment and goods from the Property at the end of the Licence Period;
- (p) to indemnify the Licensor and keep the Licensor indemnified against all losses, claims, demands, actions, proceedings, damages, costs, expenses or other liability in any way arising from:
 - (i) this licence;
 - (ii) any breach of the Licensee's undertakings contained in clause 3; and/or
 - (iii) the exercise of any rights given in clause 2;
- (q) to pay to the Licensor interest on the Licence Fee or other payments at the rate of 4 per cent per annum above the base rate of Barclays Bank plc from time to time calculated on a daily basis from the due date until payment if the Licensee shall fail to pay the Licence Fee or any other payments due under this licence within 14 days of the due date (whether formally demanded or not);

4. Termination

4.1 This licence shall end on the earliest of:

- (a) 31 March 2020; and
- (b) the expiry of any notice given by the Licensor to the Licensee at any time on breach of any of the Licensee's obligations contained in clause 3; and
- (c) the expiry of not less than one months' notice given by the Licensor to the Licensee or by the Licensee to the Licensor.

4.2 Termination of this licence shall not affect the rights of either party in connection with any breach of any obligation under this licence which existed at or before the date of termination.

5. Notices

5.1 Any notice given under this licence shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or other next working day delivery service to the relevant party as follows:

- (a) to the Licensor at: Town Hall, Castle Circus, Torquay TQ1 3DR and marked for the attention of Director of Corporate Services; and

- (c) any losses, claims, demands, actions, proceedings, damages, costs or expenses or other liability incurred by Licensee or the Licensee's employees, customers or other invitees to the Property in the exercise or purported exercise of the rights granted by clause 2.

7.2 Nothing in clause 7.1 shall limit or exclude the Licensor's liability for:

- (a) death or personal injury or damage to property caused by negligence on the part of the Licensor or its employees or agents; or
- (b) any matter in respect of which it would be unlawful for the Licensor to exclude or restrict liability.

8. Third party rights

A person who is not a party to this licence shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this licence.

9. Governing law

This licence and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

10. Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this licence or its subject matter or formation (including non-contractual disputes or claims).

This licence has been entered into on the date stated at the beginning of it.

Schedule 1 Rights granted to Licensee

1. The right for the Licensee to use during the Designated Hours:
 - 1.1 Such parts of the Common Parts for the purpose of access to and egress from the Property as shall from time to time be designated by the Licensor for such purpose.
 - 1.2 The Service Media serving the Property.

Signed for and on behalf of

THE COUNCIL OF THE
BOROUGH OF TORBAY



[Handwritten signature]
.....
Authorised signatory

The Council of The - 7206
Borough of Torbay S/No: 1468

Signed for and on behalf of

TORBAY COAST &
COUNTRYSIDE TRUST

.....
Director