

DATE

14th May

2019

(1) IPSWICH BOROUGH COUNCIL

and

(2) SUFFOLK COUNTY COUNCIL

and

(3) KANWALJIT SINGH RAI

and

(4) MANDIP SINGH

and

(5) NARINDER KAUR TAMBER

AGREEMENT

Pursuant to Section 106 Town and Country Planning Act 1990
as amended and other statutory provisions relating to land
between Tye Road, Unity Street and Duke Street Ipswich

Ipswich Borough Council
Grafton House
15-17 Russell Road
Ipswich
Suffolk
IP1 2DE

THIS DEED OF AGREEMENT is made the 14th day of May 2019

BETWEEN:

1. **IPSWICH BOROUGH COUNCIL** of Grafton House, 15-17 Russell Road, Ipswich, Suffolk IP1 2DE (hereinafter called "**the Borough Council**"); and
2. **SUFFOLK COUNTY COUNCIL** of Endeavour House, 8 Russell Road, Ipswich, Suffolk, IP1 2BX (hereinafter called "**the County Council**"); and
3. **KANWALJIT SINGH RAI, MANDIP SINGH and NARINDER KAUR TAMBER** of 36 Wentworth Road Southall UB2 5TS (hereinafter called "**the Owner**")

RECITALS

- (A) The Borough Council is the Local Planning Authority for the purposes of the 1990 Act for the area within which the Property is situated and is an Authority who may enforce the planning obligations herein.
- (B) The County Council is the local highways authority local education authority local library authority and is also a local planning authority for the purposes of the 1990 Act for the area in which the Property is situated and by whom the obligations contained in this Deed are enforceable.
- (C) The Owner is the freehold owner of the Property registered at the Land Registry under title number SK379096.
- (D) The Application was submitted to the Borough Council for the grant of the Permission for the Development of the Property and the Borough Council has resolved to grant the Permission for the Development pursuant to the Application subject to the prior completion of this Deed to regulate the Development and to secure the planning obligations herein.
- (E) Pursuant to Section 106 of the 1990 Act the Councils and the Owner have agreed to enter into the Deed and acknowledge that the Development shall not take place until certain restrictions regulating the use of the Property are imposed in the manner hereinafter appearing
- (F) Having regard to the provisions of the Local Plan, the Borough Council's Core Strategy and Policies Development Plan Document and all other material considerations the Borough Council considers it necessary in the interests of proper planning of its area that provision should be made for regulating the Development in the manner hereinafter appearing and the Borough Council is satisfied that the Permission can only be granted subject to and on completion of this Deed.
- (G) The Borough Council in resolving to approve the Application is satisfied that the planning obligations sought under the provisions of this Deed meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended)

OPERATIVE PROVISIONS

- 1 The following expressions shall have the meanings hereby respectively assigned to them:-

General Definitions

| | |
|--|--|
| "the 1990 Act" | means the Town and Country Planning Act 1990 (as amended) |
| "Affordable Housing" | Means housing that is affordable to those people who cannot afford to rent or buy housing generally available on the open market which is to be provided through the involvement of a Registered Provider and which secures the provision of such housing in perpetuity (where legally permissible and subject to the exceptions contained in this Deed) |
| "Affordable Housing Contribution" | Means a commuted sum to cover the cost of providing 7 Affordable Housing Units based on the BCIS Index (median figure) for mixed housing developments in Ipswich which shall be used for the purpose of delivering Affordable Housing within the Borough of Ipswich. |
| "Affordable Housing Scheme" | Means a scheme for the provision of the Affordable Housing Units within the Development to be submitted by the Owner to the Borough Council in accordance with this Deed and which shall contain details of (a) the type and tenure of the Affordable Housing Units to be built (b) the location of the Affordable Housing Units and (c) the arrangements for the transfer of the Affordable Housing Units to a Registered Provider |
| "Affordable Housing Unit(s)" | Means those Dwellings which are not Market Dwellings to be constructed on the Property |

pursuant to this Deed being 7 of which 6 shall be Rented Housing Units and 1 shall be a Shared Ownership Unit and "Affordable Housing Units" means any of those Affordable Housing Units accordingly

"the Application"

means the planning application given reference IP/17/00570/FUL submitted by the Owner and registered by the Borough Council on 21st June 2017 for permission to develop the Property

"BCIS Index"

the All In Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation or (if that index shall cease to be published or is otherwise unavailable) such alternative basis of indexation as may be agreed between the Borough Council County Council and the Owner

"BCIS Indexed"

the increase in any sum referred to in the Second Schedule by an amount equivalent to the increase in the BCIS Index from the date hereof until the date on which such sum is payable to be calculated in accordance with Clause 32 of this Deed;

"Benchmark Land Value"

means the value of the Property at the date of the Updated Viability Assessment based on the formula set out in the Original Viability Assessment

"Borough Council Contributions"

means the Open Space Provision Contribution, the Open Space Maintenance Contribution and the Habitat Mitigation Contribution

"Commencement Date"

means the date on which the Development commences by the carrying out on the Property pursuant to the Permission of a material operation as defined in Section 56(4) of the 1990 Act PROVIDED THAT the following operations shall not constitute a

material operation for the purposes of this Deed and for no other purpose:-

- site investigations or surveys;
- site decontamination
- the demolition of any existing buildings or structures

and "Commence Development" and "Commencement of Development" shall be construed accordingly

"Completed"

means the practical completion of the construction of a Market Dwelling such that it is available for Occupation

"Completion of Development"

the date that the last Unit or Dwelling is first Occupied

"the Councils"

means the Borough Council and the County Council

"County Council Financial Contributions"

means the Education Contribution, the Pre-school Contribution, the Library Contribution and the TRO Contribution

"Deed"

means this Deed of Agreement

"Development"

means the development of the Property by the erection of 44 residential units 2 retail kiosks on-site parking and open amenity area as set out in the Application

"Dwelling"

a dwelling (including a house flat maisonette or bungalow) to be constructed pursuant to the Permission and "Dwellings" shall be construed accordingly

"External Consultant"

Means the external consultant appointed by the Borough Council to independently assess

the Updated Viability Assessment

“Grant Date”

Means forty-four months from the date of the grant of the Permission by the Borough Council

“Late Payment Interest”

interest at four (4) per cent above the base lending rate of the Bank of England from time to time

“Market Dwelling”

means a Dwelling constructed pursuant to the Permission which is not an Affordable Housing Unit

“the Obligations”

means the obligations provisions requirements conditions or other burdens set out in this Deed

“Occupation”

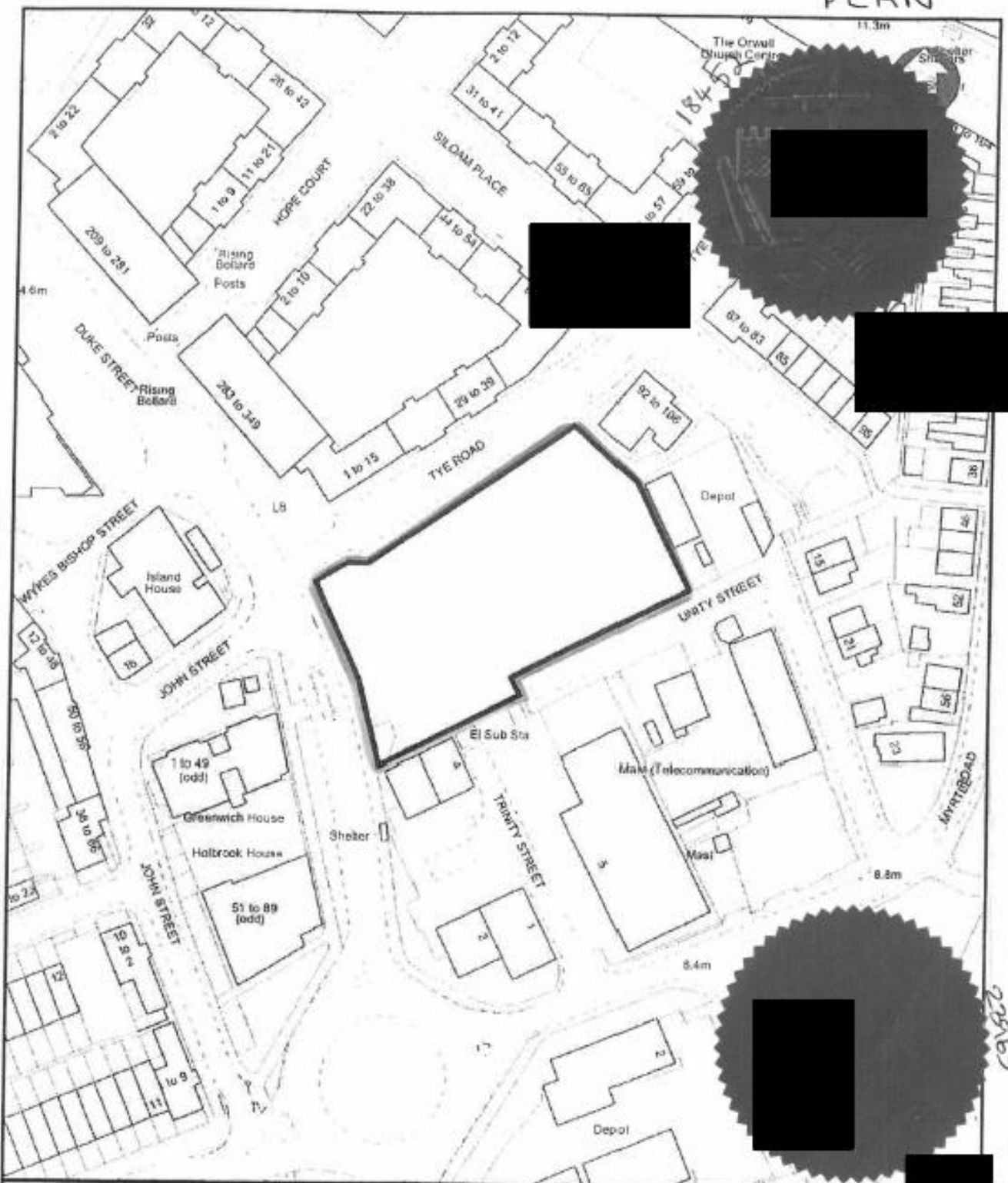
means occupation for the purpose permitted by the Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and “Occupy” and “Occupied” shall be construed accordingly

“Original Viability Assessment”

means the original viability assessment produced by Three Dragons dated June 2017 and submitted by the Owner to the Borough Council as part of the Application

| | |
|--------------------------------|--|
| “the Permission” | means the planning permission subject to conditions which may be granted by the Borough Council pursuant to the Application substantially as set out in the draft as set out in Annex 1 |
| “the Plan” | means the plan attached to this Deed and marked “Plan” |
| “the Property” | means the land described in the First Schedule against which this Deed may be enforced and as shown edged red for identification purposes only on the Plan |
| “Registered Provider” | means a registered provider of social housing within the meaning of Section 80 of the Housing and Regeneration Act 2008 and as registered with the Homes and Communities Agency pursuant to Section 116 of the Housing and Regeneration Act 2008 unless otherwise agreed in writing by the Borough Council |
| “Rented Housing Unit” | means Affordable Housing let by a Registered Provider subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges where applicable) |
| “Shared Ownership Unit” | means Affordable Housing provided under a shared ownership arrangement under which the purchaser buys an initial share from a Registered Provider who retains the remainder and may charge a rent for that remainder and under which arrangements the purchaser may buy additional shares in the equity up to 100% |
| “the Unit” | means any building constructed pursuant to the Permission other than a Dwelling |

'PLAN'



IPSWICH BOROUGH COUNCIL
TOWN PLANNING
 Martyn Fulcher BSc(Hons) PGDip MRTPI Head of Development



IP/17/00570/FUL
Land between Tye Road and Unity Street, Ipswich

Number **A 12,380**
 Scale **1:1,250**
 Date **Nov 2017**

“Updated Viability Assessment”

Means an update to the Original Viability Assessment and to be in exactly the same terms as the Original Viability Assessment the aim of which is to assess the financial viability of the Development to ascertain whether the Benchmark Land Value has been exceeded by 20% or more and whether there will be a requirement to provide the Affordable Housing Units or pay the Affordable Housing Contribution and for the avoidance of doubt shall include the Further Updated Viability Assessment.

“Working Days”

Monday to Friday (inclusive) except Good Friday, Christmas Day and public or bank holidays from time to time in England.

Financial Contributions

| | |
|--|---|
| “TRO Contribution” | Means the sum of ten thousand pounds (£10,000) BCIS Indexed |
| “Education Contribution” | Means the sum of sixty thousand nine hundred and five pounds (£60,905) BCIS Indexed |
| “Pre-School Contribution” | Means the sum of twenty four thousand three hundred and sixty four pounds (£24,364) BCIS Indexed |
| “Library Contribution” | Means the sum of seven hundred and four pounds (£704) BCIS Indexed |
| “Open Space Provision Contribution” | Means the sum of one hundred thousand one hundred and thirty five pounds (£100,135) BCIS Indexed |
| “Open Space Maintenance Contribution” | Means the sum of one hundred and one thousand nine hundred and seventy pounds (£101,970) BCIS Indexed |
| “Habitat Mitigation Contribution” | Means the sum of nine thousand and twenty pounds (£9,020) BCIS Indexed |

2. Where in this Deed reference is made to any clause, sub-clause, schedule, paragraph, sub-paragraph or recital such reference (unless the context otherwise requires) is a reference to a clause, sub-clause, schedule, paragraph, sub-paragraph or recital in this Deed
3. Words in this Deed importing the singular meaning shall where the context so admits include the plural meaning and vice versa.
4. Words in this Deed of the masculine gender shall include the feminine and neuter genders and vice versa and where denoting natural persons shall include corporations and vice versa.
5. Any reference to any enactment regulation or order includes any statutory modification or re-enactment thereof for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that enactment regulation or order or deriving validity from it.
6. References in this Deed to the Councils shall where the context so admits include any public body in which the functions of the Councils at the date hereof under the enabling powers may for the time being be vested and any duly appointed servant agent or contractor of the Councils as the case may be or such other bodies.
7. Reference in this Deed to the Owners shall include reference to successors in title and assigns to the Property or any part or parts thereof and to persons claiming an interest in land through or under it.
8. Headings in this Deed are not intended to be taken into account in its construction or interpretation.
9. "Including" means "including, without limitation".
10. Any covenants by the Owner not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing by another person.
11. Wherever more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.

STATUTORY PROVISIONS AND COVENANTS

12. This Deed is made in pursuance of:-

Section 106 of the 1990 Act

Section 111 of the Local Government Act 1972

Section 1 of the Localism Act 2011

and all other enabling legislation.

13. The obligations created in the Second Schedule hereto are planning obligations insofar as they fall within the terms of Section 106 of the 1990 Act and are enforceable by the Councils as local planning authorities against the Owner and its successors in title.
14. Insofar as any of the covenants contained in this Agreement are not planning obligations within Section 106 of the 1990 Act they are entered into pursuant to the powers contained in Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other enabling powers.
15. This Deed is conditional upon:
 - (i) the grant of the Permission; and
 - (ii) the Commencement of Developmentsave for the provisions of this clause and clauses 20-22, 25 and 38 and any other relevant provisions which shall come into effect immediately upon completion of this Deed
16. The Owners covenants with the Borough Council and County Council as set out in the Second Schedule so as to bind the Property and each and every part thereof.
17. The Borough Council covenants with the Owners as set out in Part 1 of the Third Schedule.
18. The County Council covenants with the Owners as set out in Part 2 of the Third Schedule.

AGREEMENTS AND DECLARATIONS

19. This Deed shall bind the Property and every part thereof into whosoever hands the same may come and shall be enforceable against all persons that shall for the time being hold title to the same PROVIDED that no person shall be liable for any breach of any Obligations contained in this Deed occurring after he shall have parted with all interest in the Property save in respect of any breach at a time when they held any such interest.
20. This Deed shall be a local land charge and shall be registered as such by the Borough Council.
21. The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Deed and no person who is not a party to this Deed (other than a successor in title to one of the original parties or their assignees) shall be entitled in that person's own right to enforce any provisions of this Deed pursuant to the provisions of the said Act.
22. The Owners shall pay to the Councils their reasonable legal costs incurred in connection with the negotiation, preparation, completion and registration of this Deed prior to the date hereof.
23. The Owners shall supply to the Borough Council and the County Council (within twenty-one days of the date of the Borough Council or County Council's written

request to do so) such information as the Borough Council and/or County Council within its reasonable discretion considers it requires in order to determine whether the terms and conditions of this Deed are being observed.

24. The obligations in this Deed will not be enforceable against a statutory undertaker after the transfer of statutory apparatus and any land upon or in which the statutory apparatus is situated by the Owners to that statutory undertaker.
25. Nothing in this Deed prohibits or limits the right to develop any part of the Property in accordance with a planning permission (other than the Permission) after the date of this Deed.
26. This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Permission shall be quashed revoked or otherwise withdrawn or expires by effluxion of time for the Commencement Date or is modified (without the consent of the Owner) and the Borough Council will effect cancellation of all entries in the Register of Local Land Charges in respect of this Deed
27. If any dispute shall arise between any of the Parties to this Deed as to the Obligations under the terms of this Deed (other than a dispute touching or concerning the meaning or construction of this deed) the same and all matters in relation thereto shall in the absence of any contrary provision herein contained or contrary agreement between the Parties to the dispute be referred to a single person appointed by the President for the time being of the Royal Town Planning Institute on the application of either party and such person shall act as an expert and his decision shall be final and binding on the parties to the dispute and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties to the dispute in equal shares.
28. The provision of the above clause shall not affect the ability of the Borough Council or County Council to apply for and be granted any of the following: declaratory relief, injunction, specific performance, payment of any sum, damages, any other means of enforcing this Deed and consequential and interim orders and relief.
29. Nothing contained or implied in this Deed shall prejudice or affect the rights powers duties and obligations of the Councils in the exercise of their statutory functions and the rights and powers duties and obligations of the Councils may be as fully and effectually exercised as if they were not a party to this Deed.
30. The Obligations contained in this Deed shall only be capable of being varied by a supplemental deed between the Parties hereto or their respective successors in title or assigns made under section 106A of the 1990 Act.
31. If any Financial Contributions and the Affordable Housing Contribution due under this Deed is paid late Late Payment Interest will be payable from the date payment is due to the date of payment
32. The Financial Contributions and the Affordable Housing Contribution payable by the Owner to the Borough Council or County Council as appropriate in accordance with the Second Schedule shall (unless the context reads otherwise) be increased by an

amount equivalent to the increase in the BCIS Index from the date hereof until the date on which such sum is payable using the formula $A = B \times C/D$ where:

32.1 A is the sum payable under this Deed;

32.2 B is the original sum calculated as the sum payable;

32.3 C is the BCIS Index for the month 2 months before the date on which the sum is payable;

32.4 D is the BCIS Index for the month 2 months before the date of this Deed; and

32.5 C/D is greater than 1

33. The Owner covenants from the date this Deed takes effect to allow the Councils and their respective duly authorised officers or agents at all reasonable times to enter into and upon and remain upon the Property for the purposes of monitoring compliance with the provisions of this Deed
34. The Owner hereby agrees that any rights to claim compensation arising from any limitations or restrictions on the planning of the Property under the terms of this Deed are hereby waived
35. The Owner covenants and warrants to the Councils that they have full power to enter into this Deed and that there is no other person having a charge over or any binding interest in the Property whose consent is necessary to make this Deed binding on the Property and all estates and interests therein
36. Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed
37. No waiver (whether expressed or implied) by the Councils of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Councils from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.
38. The Owner agrees with the Councils to give each of them written notice of any change in ownership of any of their interests in the Property occurring before all the obligations under this Deed have been discharged such notice to be given within twenty one (21) days of such change in ownership and shall give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Property purchased by reference to a plan and a copy of the registered title and plan thereto.
39. All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.
40. The Owner covenants to inform the Borough Council and County Council by way of written notice within seven (7) days following:
 - a) Commencement of Development;

- b) Occupation of the first (1st) Dwelling
- c) Occupation of the tenth (10th) Market Dwelling
- d) Completion of the Development
- e) Occupation of the Development
- f) Occupation of the twenty fifth (25th) Market Dwelling
- g) Occupation of the thirtieth (30th) Market Dwelling
- h) Occupation of the thirty-fifth (35th) Market Dwelling

41. This Deed is governed by and interpreted in accordance with English law and shall be determined in the courts of England.

42. The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

IN WITNESS WHEREOF the parties have executed this Deed the day and year first hereinbefore written

FIRST SCHEDULE

The Plan

Details of the Owners' Title, and description of the Property

The land shown for indicative purposes only edged red on the Plan and known as land on the east side of Duke Street Ipswich registered with the Land Registry under title number SK379096

SECOND SCHEDULE

PART 1

1. THE OWNER'S COVENANTS WITH THE COUNTY COUNCIL

TRO CONTRIBUTION

- 1.1 The Owner covenants to pay to the County Council the TRO Contribution prior to Commencement of Development
- 1.2 The Owner hereby covenants not to Commence Development until the TRO Contribution has been paid to the County Council

EDUCATION CONTRIBUTION

- 2.1 The Owner covenants to pay to the County Council the Education Contribution prior to Occupation of the first (1st) Dwelling
- 2.2.1 The Owner hereby covenants not to Occupy or permit or allow Occupation of any Dwelling until the Education Contribution has been paid to the County Council

PRE SCHOOL CONTRIBUTION

- 3.1 The Owner covenants to pay to the County Council the Pre School Contribution prior to Occupation of the first (1st) Dwelling
- 3.2 The Owner hereby covenants not to Occupy or permit or allow Occupation of any Dwelling until the Pre School Contribution has been paid to the County Council

LIBRARY CONTRIBUTION

- 4.1 The Owner covenants to pay to the County Council the Library Contribution prior to Occupation of the first (1st) Dwelling
- 4.2 The Owner hereby covenants not to Occupy or permit or allow Occupation of any Dwelling until the Library Contribution has been paid to the County Council

2. THE OWNER'S COVENANTS WITH THE BOROUGH COUNCIL

PART 2

OPEN SPACE PROVISION CONTRIBUTION

- 1.1 The Owner covenants to pay to the Borough Council the Open Space Provision Contribution prior to Occupation of the 10th Market Dwelling
- 1.2 The Owner hereby covenants not to Occupy the 10th Market Dwelling until the Open Space Provision Contribution has been paid to the Borough Council

OPEN SPACE MAINTENANCE CONTRIBUTION

- 2.1 The Owner covenants to pay to the Borough Council the Open Space Maintenance Contribution prior to Occupation of the 10th Market Dwelling
- 2.2 The Owner hereby covenants not to Occupy the 10th Market Dwelling until the Open Space Maintenance Contribution has been paid to the Borough Council

HABITAT MITIGATION CONTRIBUTION

- 3.1 The Owner covenants to pay to the Borough Council the Habitat Mitigation Contribution prior to Occupation of the Development
- 3.2 The Owner hereby covenants not to Occupy the Development until the Habitat Mitigation Contribution has been paid to the Borough Council

AFFORDABLE HOUSING AND VIABILITY

4. The Owner covenants as follows;
 - 4.1 Within 10 Working Days of the Grant Date to notify the Borough Council in writing of the number of Market Dwellings which have been Completed by the Grant Date together with evidence demonstrating the same.
 - 4.2 In the event that 22 Market Dwellings comprised in the Development have not been Completed by the Grant Date the Owner shall at its own cost prepare an Updated Viability Assessment and submit the same to the Borough Council for its consideration within 20 Working Days of the Grant Date.
 - 4.3 The Borough Council will be entitled to appoint an External Consultant to review and advise on the Updated Viability Assessment and the Owner will pay the reasonable and proper costs incurred by the External Consultant within 21 days of

receiving a written invoice setting out the details of the works undertaken and costs involved.

- 4.4 The Borough Council shall within 21 Working Days of receipt of the information referred to in Paragraph 4.2 above review and inform the Owner whether the Owner has submitted sufficient information to comply with the requirements of paragraph 4.2 and if the Borough Council following receipt of the information provided pursuant to paragraph 4.2 fails to confirm whether sufficient information has been submitted or fails to request additional information it shall be deemed that the information submitted by the Owner is sufficient to enable the Borough Council to review the Updated Viability Assessment.
- 4.5 Within 56 Working Days of receiving the Updated Viability Assessment or any additional information pursuant to paragraph 4.4 above the External Consultant or the Borough Council as the case may be complete its review of the Updated Viability Assessment and shall inform the Owner as to whether or not it considers that the Benchmark Land Value has been exceeded by 20%
- 4.6 If the outcome of the Updated Viability Assessment is that the Benchmark Land Value has been exceeded by 20% or more then the Owner shall provide the Affordable Housing Units in accordance with paragraphs 4.7 and 4.8 below of this Deed.
- 4.7 Upon written confirmation by the Borough Council that the Affordable Housing Units will be required the Owner shall no later than Occupation of the 25th Market Dwelling submit to the Borough Council the Affordable Housing Scheme for its approval and shall not Occupy more than 25 Market Dwellings until the Affordable Housing Scheme has been approved by the Borough Council in writing
- 4.8 No more than 27 Market Dwellings shall be Occupied until the Affordable Housing Units have been provided in accordance with the Affordable Housing Scheme
- 4.9 Unless the Affordable Housing Units have already been provided pursuant to paragraphs 4.6 to 4.8 above, the Further Updated Viability Assessment shall be submitted to the Borough Council no later than Occupation of the 30th Market Dwelling.
- 4.10 The Borough Council will be entitled to appoint an External Consultant to review and advise on the Further Updated Viability Assessment and the Owner will pay the reasonable and proper costs incurred by the External Consultant within 21 days of receiving a written invoice setting out the details of the works undertaken and costs involved.
- 4.11 The Borough Council shall within 21 Working Days of receipt of the information referred to in Paragraph 4.9 above review and inform the Owner whether the Owner has submitted sufficient information to comply with the requirements of paragraph 4.9 and if the Borough Council following receipt of the information provided pursuant to paragraph 4.9 fails to confirm whether sufficient information has been submitted or fails to request additional information it shall be deemed that the information submitted by the Owner is sufficient to enable the Borough Council to review the Further Updated Viability Assessment.

- 4.12 Within 56 Working Days of receiving the Further Updated Viability Assessment or any additional information pursuant to paragraph 4.11 above the External Consultant or the Borough Council as the case may be complete its review of the Further Updated Viability Assessment and shall inform the Owner as to whether or not it considers that the Benchmark Land Value has been exceeded by 20%
- 4.13 If the outcome of the Further Updated Viability Assessment required pursuant to paragraph 4.9 (and paragraph 4.11 if appropriate) is that the Benchmark Land Value has been exceeded by 20% or more then the Owner shall provide the Affordable Housing Contribution no later than 6 months from the date of the Further Updated Viability Assessment pursuant to paragraph 4.9 of this Deed and in any event no later than Occupation of the 35th Market Dwelling

THIRD SCHEDULE

PART 1

Borough Council Covenants

1. The Borough Council covenants with the Owner to issue the Permission within 5 Working Days of the date of this Deed
2. The Borough Council covenants to use the Open Space Provision Contribution towards the provision of public open spaces and/or sport and recreation facilities serving the Development
3. The Borough Council covenants to use the Open Space Maintenance Contribution towards the maintenance of public open spaces and/or sports and recreation facilities serving the Development including those facilities funded by the Open Space Provision Contribution
4. The Borough Council covenants to use the Habitat Mitigation Contribution towards projects that mitigate against the impact of the Development upon protected sites, specifically within the Stour and Orwell Special Protection Area.
5. The Borough Council shall if requested to do so in writing after the expiry of ten (10) years of the date that the Borough Council Contributions were paid within a further period of one (1) year pay to any person such amount of Borough Council Contributions paid by that person in accordance with the provisions of this Deed which has not been committed or expended by the Borough Council in accordance with the provisions of this Deed together with any interest accrued on the amount to be repaid at the Bank of England Base Rate minus 2 basis points, compounding annually at financial year end. If for any period the Bank of England Base Rate is at or below 0.02% then no interest shall be payable for that period by any party to this agreement. Such payment shall be made within twenty eight (28) Working Days of such request.
6. When the Borough Council Contributions (as applicable) paid to the Borough Council pursuant to this Deed has been spent or committed the Borough Council shall upon written request by the Owners after the expiry of ten (10) years of the payment of that sum within a further period of one (1) year notify the Owners that such monies have been spent or committed such notice to include full details of what the said monies were spent on or committed to

PART 2

County Council Covenants

1. APPLICATION OF CONTRIBUTIONS

- 1.1 The County Council covenants to use the TRO Contribution towards the cost of reviewing and progressing a scheme of waiting restrictions within the vicinity of the Property
- 1.2 The County Council covenants to use the Education Contribution towards the cost of improvement and enhancement of Cliff Land Primary School
- 1.3 The County Council covenants to use the Pre School Contribution towards the cost of improvement and enhancement of early years provision within the Holywells ward
- 1.4 The County Council covenants to use the Library Contribution towards the cost of provision of books and resources at Ipswich Central Library

2. REPAYMENT OF FINANCIAL CONTRIBUTIONS

- 2.1 The County Council shall if requested to do so in writing after the expiry of ten (10) years of the date that the County Council Financial Contributions were paid within a further period of one (1) year pay to any person such amount of the County Council Financial Contributions paid by that person in accordance with the provisions of this Deed which has not been committed or expended by the County Council in accordance with the provisions of this Deed together with any interest accrued on the amount to be repaid at the Bank of England Base Rate minus 2 basis points, compounding annually at financial year end. If for any period the Bank of England Base Rate is at or below 0.02% then no interest shall be payable for that period by any party to this agreement.
- 2.2 When the County Council Financial Contributions (as applicable) paid to the County Council pursuant to this Deed has been spent or committed the County Council shall upon written request by the Owners after the expiry of ten (10) years of the payment of that sum within a further period of one (1) year notify the Owners that such monies have been spent or committed such notice to include full details of what the said monies were spent on or committed to

ANNEX 1

**Draft Decision Notice for
Planning application IP/17/00570/FUL**

**TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING
(DEVELOPMENT MANAGEMENT PROCEDURE)
(ENGLAND) ORDER 2015**



To: Ms Katherine Seagrief
Brocklehurst Architects
15 High Street
West Wycombe
High Wycombe
HP14 3AE

Agent for:
Mr Kanwaljit Singh Rai

Application Reference: IP/17/00570/FUL

GRANT OF FULL PLANNING PERMISSION

Ipswich Borough Council, as local planning authority, hereby **GRANT** Full Planning Permission for:

Erection of 44 no. residential units, 2 no. retail kiosks, on site parking and open amenity area.

at: Land Between Tye Road And Unity Street Duke Street Ipswich Suffolk

in accordance with your application reference: IP/17/00570/FUL received 21.06.2017.

By virtue of Section 91 of the Town and Country Planning Act, 1990 this permission is granted subject to the condition that the development to which it relates must be begun not later than the expiration of three years beginning with the date of this notice.

This permission is also subject to the following condition(s): -

1. The hereby-approved development shall be carried out in accordance with the approved plans:- Drawing no's 4883-101 Rev A, -102 Rev A, - 103 Rev A, - 104 Rev A, - 105 Rev A, - 106 Rev A, - 107 Rev A, - 108 Rev A, - 109, - 110, - 111 Rev A, - 112 Rev A, - 113 Rev A, - 114 Rev A, - 115 Rev A, - 120 Rev A and - 121.
2. The hereby-approved dwellings shall achieve reductions in CO2 emissions of 19% below the Target Emission Rate of the 2013 Edition of the 2010 Building Regulations (Part L) and water efficiency standards of 110 litres/person/day unless, in exceptional circumstances, it can be clearly demonstrated that this is either not feasible or not viable. Before the hereby-approved dwellings are first occupied, details of compliance with these requirements or demonstration that the requirements are not feasible or viable, shall be submitted to and approved in writing by the Local Planning Authority.
3. None of the hereby-approved dwellings shall be first occupied until a scheme to provide a minimum of 15% (or in the case that the achievement of this percentage is demonstrated not to be feasible or viable such lesser percentage as may be agreed in writing with the Local Planning Authority) of the predicted required energy supply for the new development from decentralised and renewable or low carbon sources has been submitted to and approved in

writing by the Local Planning Authority. The approved scheme shall be implemented in full on first occupation and thereafter the provisions of the scheme shall be maintained for the lifetime of the development in accordance with the details of the approved scheme.

4. Before works relating to the external elevations of the hereby-approved dwellings are commenced details of external facing materials shall be submitted to and approved in writing with the Local Planning Authority. The external elevations of the development shall only be implemented in accordance with the approved details.
5. Before the hereby-approved dwellings are first occupied the following details shall be submitted to and approved in writing with the Local Planning Authority. The approved works shall be provided in their entirety on first occupation and retained as such thereafter:-
 - i. Boundary treatments (including gaps for ecological movement)
 - ii. Ecological/habitat measures
 - iii. Cycle parking
 - iv. Electric vehicle charging
 - v. Mechanical ventilation
 - vi. Bin storage and collection
 - vii. Broadband connection (superfast broadband to each dwelling)
 - viii. Lighting in relation to Unity Street and public routes
 - ix. Fire hydrants
6. Before the hereby-approved dwellings are first occupied, details of landscaping shall be submitted to and approved in writing with the Local Planning Authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the substantial completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
7. None of the hereby-approved development shall be commenced until a Phase 2 Investigation (as recommended by the Phase I Contaminated Land Assessment dated 13.04.2017) with regard to the nature and extent of any contamination affecting the site, including a remediation scheme should such a scheme be necessary, has been submitted to and approved in writing by the Local Planning Authority.
8. Should remediation be necessary it must be carried out in accordance with the details submitted and approved pursuant to condition 7 prior to the commencement of development, other than works required to carry out remediation or works otherwise agreed in writing by the Local Planning Authority. Following completion of any measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced for approval in writing by the Local Planning Authority.
9. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.
10. No new groundworks, highway works or footpath works associated with the development shall commence until details of highway improvements (road and footway) and new public footpaths (including layout, levels, gradients, surfacing and means of surface water drainage)

have been submitted to and approved in writing with the Local Planning Authority. The highway improvements and new footpaths shall be provided in their entirety in accordance with the approved details before first occupation of any hereby-approved dwelling and made available as publicly accessible routes at all times thereafter.

11. The junction to the site shall be completed as detailed on submitted drawing no. 4883-102 Rev A and to the County Council's full specification and be available for use before first occupation of any hereby-approved dwelling and thereafter it shall be retained in its approved form. At this time all other means of vehicular access to the application site (onto Duke Street) shall be permanently and effectively "stopped up" in a manner which previously shall have been approved in writing by the Local Planning Authority.
12. None of the hereby-approved dwellings shall be first occupied until the areas within the site shown on drawing no. 4883-102 Rev A for the purposes of loading, unloading, manoeuvring and parking of vehicles, have been provided and thereafter those areas shall be retained and used for no other purposes.
13. Before new highway works are commenced, details shall be submitted to and approved in writing by the Local Planning Authority showing the means to manage surface water locally and to prevent the discharge of surface water from the development onto the highway. The approved scheme shall be carried out in its entirety before first occupation of the development and shall be retained thereafter in its approved form.
14. Before the development hereby permitted is commenced a Construction Management Plan shall have been submitted to and approved in writing by the Local Planning Authority. Construction of the development shall not be carried out other than in accordance with the approved construction management plan.
15. No new groundworks, highway works or footpath works associated with the development shall be commenced until a photographic condition survey of the highways fronting and near to the site has been submitted to and approved in writing by the Local Planning Authority.
16. Within one month of the first occupation of any hereby-approved dwelling, the occupiers of each of the dwellings shall be provided with a Residents Travel Pack (RTP). Not less than 3 months prior to the first occupation of any dwelling, the contents of the RTP shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority and shall include walking, cycling and bus maps, latest relevant bus and rail timetable information, car sharing information, personalised travel planning and a multi-modal travel voucher. The RTP shall be maintained and operated thereafter.
17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any equivalent provision in any statutory instrument revoking and re-enacting that Order with or without modification, the hereby-approved kiosks shall only be used for purposes within Classes A1 (shops) or A2 (financial and professional services) of the Town and Country Planning (Use Classes) Order 1987 (as amended) or any equivalent class in any statutory instrument revoking and re-enacting that Order with or without modification.
18. No new groundworks, highway works or footpath works associated with the development shall be commenced until details of surface water drainage, including details regarding implementation, maintenance and management, have been submitted to and approved in writing by the Local Planning Authority. The surface water drainage shall be implemented and thereafter maintained and managed in accordance with the approved details.
19. None of the hereby-approved dwellings shall be first occupied until details of all Sustainable Urban Drainage System components and piped networks have been submitted, in an approved form, to and approved in writing by the Local Planning Authority for inclusion on

the Lead Local Flood Authority's Flood Risk Asset Register.

The reasons for the above condition(s) are as follows: -

1. For the avoidance of doubt and in the interests of proper planning.
2. & 3. In the interests of sustainable development.
4. To ensure a high standard of development.
5. To ensure a high standard of sustainable development, to encourage sustainable modes of travel and a good standard of amenity.
6. To ensure a high standard of development.
7. 8. & 9. To safeguard against the risk of contamination. These details also relate to construction works and cannot be considered retrospectively.
10. To ensure that roads/footways are constructed to an acceptable standard and made available for public use.
11. In the interests of highway safety to ensure the approved layout is properly constructed and laid out and to avoid multiple accesses which would be detrimental to highway safety.
12. To ensure that sufficient space for the on site parking of vehicles is provided and maintained.
13. To prevent hazards caused by flowing water or ice on the highway.
14. In the interests of amenity and highway safety. These details relate to construction and cannot be considered retrospectively.
15. To ensure that damage to the highway as a result of the development is repaired at the developer's cost and satisfactory access is maintained for the safety of residents and the public.
16. In the interests of sustainable development.
17. To protect amenity and to ensure proper controls over the commercial floorspace.
18. To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site for the lifetime of the development.
19. To ensure all flood risk assets and their owners are recorded onto the LLFA's statutory flood risk asset register as per section 21 of the Flood and Water Management Act.

INFORMATIVES

1. There is now a planning fee payable for applications in writing to discharge planning permission conditions. The rates as prescribed by Central Government are £97 for each written request.
2. Note: It is an OFFENCE to carry out any works within the public highway, which includes a Public Right of Way, without the permission of the Highway Authority. Any conditions which involve work within the limits of the public highway do not give the applicant permission to carry them out.

3. Note: The works within the public highway will be required to be designed and constructed in accordance with the County Council's specification. The applicant will also be required to enter into a legal agreement under the provisions of Section 278 of the Highways Act 1980 relating to the construction and subsequent adoption of the highway improvements. Amongst other things the Agreement will cover the specification of the highway works, safety audit procedures, construction and supervision and inspection of the works, bonding arrangements, indemnity of the County Council regarding noise insulation and land compensation claims, commuted sums, and changes to the existing street lighting and signing.
4. Note: Public Utility apparatus may be affected by this proposal. The appropriate utility service should be contacted to reach agreement on any necessary alterations which have to be carried out at the expense of the developer.
5. Note: Section 153 of the Highways Act 1980 makes it an OFFENCE to put up doors, windows or gates that open out over the highway.
6. Note: Section 137 makes it an OFFENCE to obstruct the highway, for example by a vehicle projecting over it from private property.
7. Note: Hedges should be planted far enough away from the highway so that they can mature without growing over the highway. Section 154 Highways Act 1980 empowers the Highway Authority to cut or fell trees, hedges etc that cause danger, obstruction or interference with use of the highway.
8. Note: Section 141 Highways Act restricts planting of trees etc., in or near the carriageway. The Highway Authority recommends new trees planted close to roads have an approved root direction system to prevent damage to the highway.
9. The Local Planning Authority recommends the installation of a suitable sprinkler system within the dwellings. Please note the attached advice from Suffolk Fire and Rescue.
10. You are reminded that the carrying out of building works requires approval under the Building Regulations in many cases as well as a grant of planning permission. If you are in doubt as to whether or not the work, the subject of this planning permission, requires such approval, then you are invited to contact the Building Control section at Ipswich Borough Council on email: building_control@ipswich.gov.uk or on telephone number: 01473 432951.
11. Many species of plant and animal in England, and their habitats, are protected by law. You are breaking the law if you capture, kill, disturb or injure a European protected species (on purpose or by not taking enough care); damage or destroy a breeding or resting place (even accidentally); obstruct access to their resting or sheltering places (on purpose or by not taking enough care); possess, sell, control or transport live or dead individuals, or parts of them. For further information and guidance you are advised to speak to Natural England at www.gov.uk or by telephone on 0300 060 6000.
12. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
13. The applicant's attention is drawn to the advice provided by Suffolk Police, particularly with regard to the future management of the car parking areas. The advice from Suffolk Police is attached.
14. This permission is subject to a related agreement under Section 106 of the Town and Country

Planning Act 1990.

15. Note: Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991 or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.
16. Note: An application to discharge trade effluent must be made to Anglian Water and must have been obtained before any discharge of trade effluent can be made to the public sewer. Anglian Water recommends that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of such facilities could result in pollution of the local watercourse and may constitute an offence. Anglian Water also recommends the installation of a properly maintained fat traps on all catering establishments. Failure to do so may result in this and other properties suffering blocked drains, sewage flooding and consequential environmental and amenity impact and may also constitute an offence under section 111 of the Water Industry Act 1991.
17. Note: The block plan shows trees planted close to or over a proposed plastic underground attenuation tank shown in the Drainage Statement. Trees should not be planted over the tank.

Summary of Development Plan policies and proposals relevant to this decision: -

1. Core Strategy and Policies DPD Review (2017) - Policies CS2 (The Location and Nature of Development); CS7 (The Amount of New Housing Required); CS8 (Housing Type and Tenure); CS12 (Affordable Housing); CS17 (Delivering Infrastructure); DM1 (Sustainable Design and Construction); DM2 (Decentralised Renewable or Low Carbon Energy); DM3 (Provision of Private Outdoor Amenity Space in New and Existing Developments); DM4 (Development and Flood Risk); DM5 (Design and Character); DM8 (Heritage Assets and Conservation); DM10 (Protection of Trees and Hedgerows); DM17 (Transport and Access in New Developments); DM18 (Car & Cycle Parking); DM21 (District and Local Centres); DM23 (Retail Proposals Outside Defined Centres); DM24 (Affordable Housing); DM26 (Protection of Amenity); DM29 (Provision of New Open Spaces, Sport and Recreation Facilities); DM30 (The Density of Residential Development); DM31 (The Natural Environment); DM33 (Green Corridors)

Site Allocations and Policies DPD (2017) - Policies SP1 (The protection of allocated sites); SP2 (Land allocated for housing) and SP6 (Land allocated and protected as open space)

Other planning guidance:-

Space and Design Guidelines SPD (2015)

Suffolk Guidance for Parking - Technical Guidance (2015)

DCLM Technical housing standards - nationally described space standard (2015)

Cycling SPD (2016)

Public Open Space SPD (2017)

Dated:

Signed:

Martyn Fulcher BSc (Hons) PGDip MRTPI
Head of Development
Grafton House
15 -17 Russell Road
Ipswich IP1 2DE

SEE NOTES BELOW/OVERLEAF

N.B. This permission is not an approval under the Building Regulations; Approval under those regulations may also be required.

NOTES

1. If you are aggrieved by the decision of your Local Planning Authority to refuse permission or approval for the proposed development, or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.
2. If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an Enforcement Notice, if you want to appeal against your Local Planning Authority's decision on your application, then you must do so within 28 days of the date of this notice.
3. If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your Local Planning Authority's decision on your application, then you must do so within; 28 days of the date of service of the enforcement notice, or within 6 months (12 weeks in the case of a householder appeal) of the date of this notice, whichever period expires earlier.
4. If this is a decision to refuse planning permission for a householder application, if you want to appeal against your Local Planning Authority's decision then you must do so within 12 weeks of the date of this notice.
5. If you want to appeal against your Local Planning Authority's decision then you must do so within 6 months of the date of this notice.
6. Appeals must be made using a form which you can get from Secretary of State, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at www.planningportal.gov.uk/pcs
7. The Secretary of State can allow a longer period for the giving of a notice of appeal, but he will not normally be prepared to exercise this power unless there are special circumstances, which excuse the delay in giving notice of appeal.
8. The Secretary of State need not consider an appeal if it seems to the Secretary of State that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
9. In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based their decision on a direction given by the Secretary of State.
10. If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that the owner can neither put the land to a reasonable beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
11. In these circumstances, the owner may serve a purchase notice on the Council (that is, where the land is situated in a National Park, the National Park Authority for that Park, or in any other case the District Council (or County Council which is exercising the function of a District Council in relation to an area for which there is no District Council), London Borough Council or Common Council of the City of London in whose area the land is situated). This notice will require the Council to purchase the owner's interest in the land in accordance with the provisions of Chapter I of Part VI of the Town and Country Planning Act 1990.

In making this decision the Council has positively addressed the National Planning Policy Framework 2018.

THE COMMON SEAL OF IPSWICH
BOROUGH COUNCIL was hereunto
affixed in the presence of:



Authorised Signatory



Authorised Signatory

)
)
)



THE COMMON SEAL OF SUFFOLK
COUNTY COUNCIL was hereunto
affixed in the presence of:



Authorised Signatory

)
)
)



EXECUTED AS A DEED BY
KANWALJIT SINGH RAI

in the presence of a witness

Signature of Witness



Name of Witness

Address



)
)
)



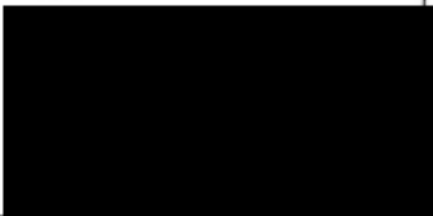
EXECUTED AS A DEED BY MANDIP SINGH

in the presence of a witness

Signature of Witness



Name of Witness



Address



EXECUTED AS A DEED BY NARINDER KAUR TAMBER

in the presence of a witness

Signature of Witness



Name of V

Address

