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Dated: 4 September 2020
(1) AMAZON UK SERVICES LIMITED

Undertaking

under section 106 Town and Country Planning Act 1990 relating to Plot 5, Sproughton Enterprise Park, Sproughton Road, Ipswich, IP1 5BL

We certify this document as a true copy of the original
[Redacted]
Date: 4/9/20
EVERSHEDS SUTHERLAND (INTERNATIONAL) LLP



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THIS UNDERTAKING is given on 4 September 2020

BY:

(1) **AMAZON UK SERVICES LIMITED** (registered number 03223028) whose registered office is at 1 Principal Place, Worship Street, London EC2A 2FA ("**the Landowner**").

TO:

(2) **BABERGH DISTRICT COUNCIL** of Endeavour House, 8 Russell Road, Ipswich, IP1 2BX ("**the Council**"); and

(3) **SUFFOLK COUNTY COUNCIL** of Endeavour House, 8 Russell Road, Ipswich, IP1 2BX ("**the County Council**").

BACKGROUND

- (A) For the purposes of the 1990 Act, the Council is the local planning authority for the area within which the Site is located.
- (B) For the purposes of the 1980 Act, the County Council is the local highway authority for the area within which the Site is located.
- (C) The Landowner is the freehold owner of the whole of the Site free from encumbrances that would prevent the Landowner entering into this Undertaking.
- (D) The Site has the benefit of the Outline Planning Permission, the Reserved Matters Approval and the Condition Discharge Approval.
- (E) The Landowner considers that certain planning obligations should be entered into as at the date of this Undertaking, subject to the conditions set out in this Undertaking, in respect of the Site.
- (F) The Landowner has agreed to enter into this Undertaking with the intention that the obligations contained in this Undertaking may be enforced by the Council and the County Council against the Landowner and its successors in title.

1. **INTERPRETATION** { TC "1 INTERPRETATION" \ 1 }

In this Undertaking, the following words and expressions have the following meanings:

- "**1980 Act**" the Highways Act 1980
- "**1990 Act**" the Town and Country Planning Act 1990
- "**Charge Holder**" means any mortgagee or chargee of the Site (or any part thereof) or the successors in title to such mortgagee or chargee or any receiver or manager appointed by such mortgagee or chargee
- "**Commencement Date**" the date specified in **clause 3.1**
- "**Condition Discharge Approval**" the condition discharge notice issued by the Council on 7 November 2019 with reference number DC/19/04140 to discharge certain planning conditions attached to the Outline Planning Permission



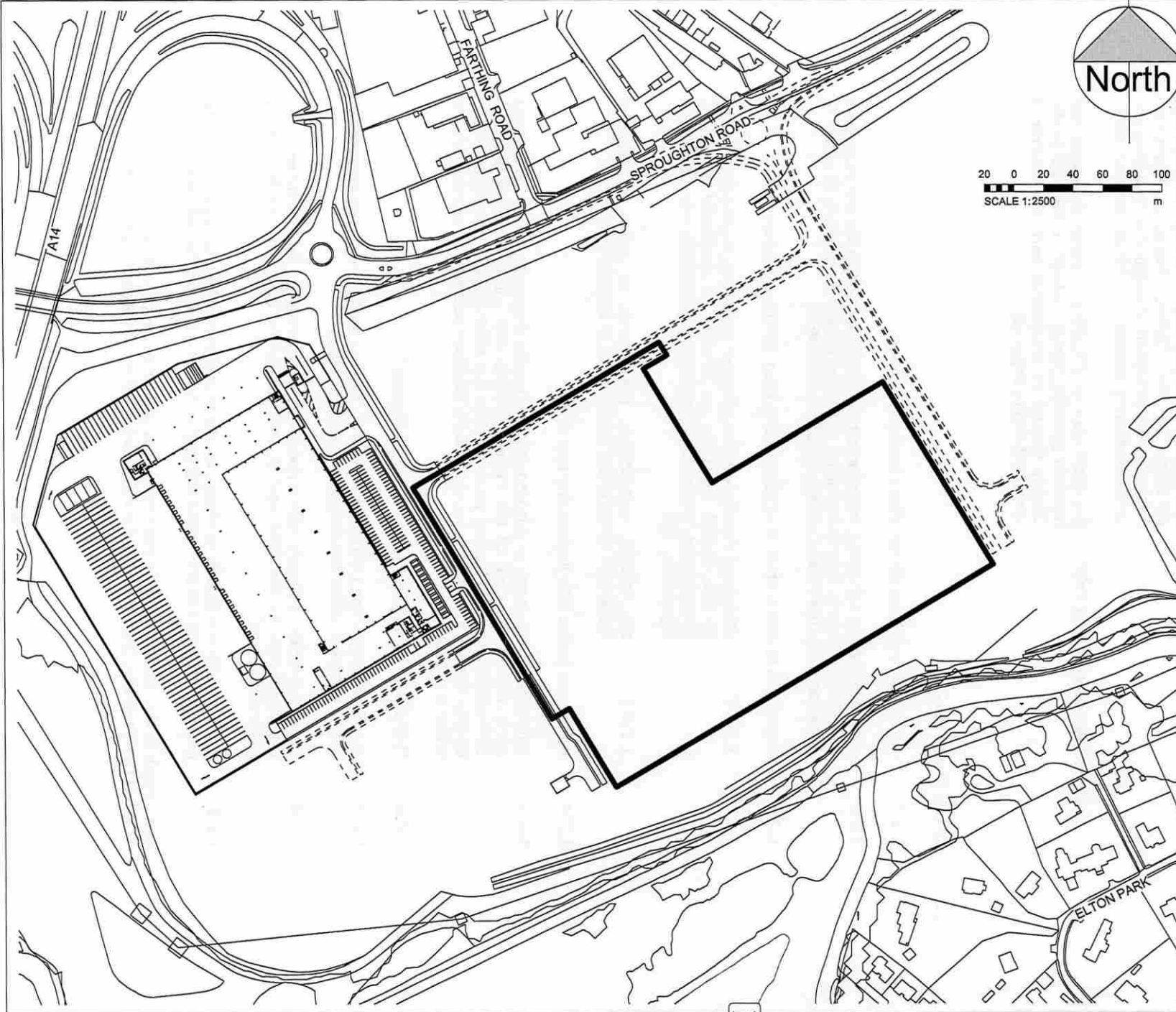
- "Development"** the development of the Site for a warehouse (Class B8) with ancillary office accommodation (Class B1), associated car parking, van storage, cycle parking, pedestrian access arrangements, landscaping and infrastructure
- "Index Linked"** means such increase to any sum or sums payable under this Undertaking on an annual basis or pro rata per diem from the date of the grant of the Reserved Matters Approval to the date of payment (or calculation as the case may be) based upon the Retail Price Index last published before the date of the decision to approve the grant of the Reserved Matters Approval;
- "New Permission"** a planning permission authorising the redevelopment of the Site in a manner which would, if such redevelopment were completed, cause the Landowner to be in breach of any or all of the provisions contained in this Undertaking
- "Occupation"** means occupation of the Site for the use authorised by the Outline Planning Permission and the Reserved Matters Approval and for the avoidance of doubt shall not include occupation for the purpose of constructing or fitting out the Development and **"Occupied"**, **"Occupy"** and **"Occupying"** shall be construed accordingly
- "Outline Planning Permission"** the outline planning permission granted by the Council with reference DC/17/05687 dated 3 December 2018 for 'Development of an Enterprise Park comprising up to 90,000sqm GIA of employment floorspace (B1/B2/B8), 9,000sqm GIA of motor vehicle sales (sui generis), a local centre (accommodating with up to 1,250 sqm NIA of retail floorspace including local retail and services (A1 and A2) restaurants, pubs and takeaways (A3, A4, A5)) together with an 80-bed hotel (C1); new and improved access from Sproughton Road; together with the provision of landscaping, infrastructure (including movement (highways, parking, cycle and pedestrian routes), utilities (including gas, electricity, water, sewerage, telecommunications) and sustainable drainage systems), and engineering works (including demolition of existing structures and buildings, breaking-up and recycling of hardstanding and ground remodelling and enabling works)'
- "Plan"** the plan attached to this Undertaking and labelled the "Plan"
- "Reserved Matters Approval"** the approval of details under the Outline Planning Permission – Access, Appearance, Landscaping, Layout and Scale for the Development granted by way of decision notice dated 7 November 2019 with reference DC/19/003371

"Site"	the freehold property known as Plot 5, Sproughton Enterprise Park, Sproughton Road, Ipswich, IP1 5BL registered at HM Land Registry under that part of title number SK258896 that is shown for identification purposes only edged red on the Plan
"Travel Plan Monitoring"	the monitoring to be undertaken by the County Council via engagement with the appointed Travel Plan Coordinator to ensure that the aims, objectives and targets of the plot specific travel plan approved pursuant to the Outline Planning Permission (including the collection of baseline survey data and initial monitoring reports) are being complied with
"Travel Plan Monitoring Fee"	the total sum of £7,500.00 (seven thousand five hundred pounds) (Index Linked) to be paid to the County Council in accordance with the provisions contained within Schedule 1

1.2 In this Undertaking:

- 1.2.1 the clause headings do not affect its interpretation;
- 1.2.2 unless otherwise indicated, references to clauses and Schedules are to clauses of and Schedules to this Undertaking and references in a Schedule to a Part or paragraph are to a Part or paragraph of that Schedule;
- 1.2.3 references to any statute or statutory provision include references to:
 - 1.2.3.1 all Acts of Parliament and all other legislation having legal effect in the United Kingdom as directly or indirectly amended, consolidated, extended, replaced or re-enacted by any subsequent legislation; and
 - 1.2.3.2 any orders, regulations, instruments or other subordinate legislation made under that statute or statutory provision;
- 1.2.4 references to the Site include any part of it;
- 1.2.5 references to any party in this Undertaking include the successors in title of that party and in the case of the Council include any successor local planning authority exercising planning powers under the 1990 Act and references to the County Council include any successor local highway authority exercising powers under the 1980 Act;
- 1.2.6 "including" means "including, without limitation";
- 1.2.7 any covenant by the Landowner not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing;
- 1.2.8 where two or more people form a party to this Undertaking, the obligations they undertake may be enforced against them all jointly or against each of them individually; and
- 1.2.9 if any provision is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of the Undertaking is to be unaffected.

1.3 The parties to this Undertaking do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.



Architects are to be notified of any discrepancies.
Contractors must check all dimensions on site.
This drawing is subject to copyright laws and is for use on this project only.
This drawing is to be used solely for the information as filled only.
For other information refer to the latest revision of any cross referenced drawings.

Rev	Date	Description	Drn	Ckd
B	04/07/19	Slab Level confirmed. Designs updated	JML	MA
A	25/06/19	Updated to latest approved layout and following consultant comments	JML	MA
	21/06/19	First Issue	JML	MA

Status: Planning

Client: Gleave Partnership LTD

Project name: Plot 5, Ipswich

Project address: Plot 5, Sproughton Enterprise Park, Ipswich, IP1 5BL

Drawing Title: Site Location Plan

Job No:	Drg No:	Revision:
19-6347	P01	B

Date:	Scale:	Sheet size:
June 19	1 : 2500	A3

S+SA
ARCHITECTS

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2. **EFFECT OF THIS UNDERTAKING**{ TC "2 EFFECT OF THIS UNDERTAKING" \ 1 }

- 2.1 This Undertaking is made pursuant to section 106 of the 1990 Act. To the extent that they fall within the terms of section 106 of the 1990 Act, the obligations contained in this Undertaking are planning obligations for the purposes of section 106 of the 1990 Act and are enforceable by the Council.
- 2.2 The Council and the County Council are the local authorities having the power to enforce the planning obligations contained in this Undertaking.
- 2.3 This Undertaking is capable of and may be registered as a local land charge by the Council.
- 2.4 Nothing in this Undertaking prohibits or limits the right to develop any part of the Site in accordance with a planning permission, other than one relating to the Development as specified in the Application, granted after the date of this Undertaking, whether or not pursuant to an appeal.

3. **COMMENCEMENT DATE**{ TC "3 COMMENCEMENT DATE" \ 1 }

- 3.1 The obligations contained in **clause 4.1** of and **Schedule 1** to this Undertaking do not come into effect until the earlier of the following dates:
- 3.1.1 subject to **clause 3.3**, the date seven weeks after the date of the Condition Discharge Approval subject to no legal proceedings having been commenced by any person to challenge the validity of the Condition Discharge Approval;
- 3.1.2 subject to **clause 3.2**, the date on which the Development commences by the carrying out on the Site pursuant to the Outline Planning Permission of a material operation as specified in section 56(4) of the 1990 Act; and
- 3.1.3 subject to **clause 3.3**, the date seven weeks after the date on which the Reserved Matters Approval is granted subject to no legal proceedings having been commenced by any person to challenge the validity of the Reserved Matters Approval.
- 3.2 The Commencement Date will not be triggered by any of the following operations:
- 3.2.1 site investigations or surveys;
- 3.2.2 site decontamination;
- 3.2.3 construction of access and service roads;
- 3.2.4 the demolition of any existing buildings or structures;
- 3.2.5 the clearance or regrading of the Site;
- 3.2.6 works connected with infilling; or
- 3.2.7 works for the provision of drainage or mains services to prepare the Site for development.
- 3.3 If, before the expiry of the seven week period referred to in **clause 3.1.1 and 3.1.3** any person commences legal proceedings to challenge the validity of the Condition Discharge Approval and/or the Reserved Matters Approval, then the seven week period will be extended until seven days after the final determination of those legal proceedings in a form that leaves the Condition Discharge Approval and/or the Reserved Matters Approval in place. Any extension under this **clause 3.2** will include the period allowed for any appeal and any appeal hearing and, where applicable, for any necessary re-determination by the Council.

4. **OBLIGATIONS OF THE PARTIES**{ TC "4 OBLIGATIONS OF THE PARTIES" \ 1 }

4.1 The Landowner undertakes to comply with the obligations set out in **Schedule 1** in relation to the Development.

4.2 No person will be liable for any breach of the terms of this Undertaking occurring after parting with their interest in the Site or the part of the Site in respect of which such breach occurs but they will remain liable for any breaches of this Undertaking occurring before that date. Neither the reservation of any rights or the inclusion of any covenants or restrictions over the Site in any transfer of the Site will constitute an interest for the purposes of this **clause 4.2**.

5. **TERMINATION OF THIS UNDERTAKING**{ TC "5 TERMINATION OF THIS UNDERTAKING" \ 1 }

5.1 This Undertaking will come to an end if:

5.1.1 the Outline Planning Permission or the Reserved Matters Approval is quashed, revoked or otherwise withdrawn or modified at any time so as to render this Undertaking or any part of it irrelevant, impractical or unviable;

5.1.2 the Outline Planning Permission expires before the Commencement Date without having been implemented; or

5.1.3 at any time after the date of this Undertaking, the Council or any other competent authority grants a New Permission under which development is initiated for the purposes of section 56 of the 1990 Act.

6. **CHARGE HOLDER**{ TC "6 CHARGE HOLDER" \ 1 }

No Charge Holder will incur any liability for any breach of the obligations contained in this Undertaking unless and until it becomes a mortgagee in possession of the Site or the relevant part of it in which case it too will be bound by the obligations contained in this Undertaking as if it were a person deriving title from the Landowner.

6.1 Any notice required or authorised to be served by or given pursuant to this deed shall be in writing and shall be sufficiently served if it is delivered by hand or sent by recorded delivery or commercial courier to each party required to receive the notice or communication as set out below:

6.1.1 Landowner: to the Landowner at its registered office address marked for the attention of "UK Legal Director – UK DIP1" or to such other alternative address in the United Kingdom or alternative person as the Landowner may nominate in writing to the Council and the County Council from time to time;

6.1.2 County Council: Endeavour House, 8 Russell Road, Ipswich IP1 2BX marked for the attention of the Executive Director Growth Highways and Infrastructure

6.1.3 Council: Endeavour House, 8 Russell Road, Ipswich, IP1 2BX

or such other address as otherwise specified by the relevant party by notice in writing to each other party.

6.2 Any notice shall be deemed to have been duly received:

6.2.1 if delivered personally, when left at the address and for the contact referred to in this clause; or

6.2.2 if sent by recorded delivery, at 14:00 on the second working day after posting; or

6.2.3 if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

6.3 Service of notices by electronic mail or facsimile shall not be valid for the purposes of this deed.

7. **JURISDICTION**{ TC "7 JURISDICTION" \ 1 }

7.1 This Undertaking is to be governed by and interpreted in accordance with the law of England and Wales.

7.2 The courts of England and Wales are to have jurisdiction in relation to any disputes between the parties arising out of or related to this Undertaking.

8. **EXECUTION**{ TC "8 EXECUTION" \ 1 }

The parties have executed this Undertaking as a deed and it is delivered on the date set out above.

SCHEDULE 1{ TC "SCHEDULES" \L 4 \N }

Travel Plan Monitoring Fee{ TC "1 Travel Plan Monitoring Fee" \I 3 }

1. The Landowner undertakes to pay the Travel Plan Monitoring Fee to the County Council prior to first Occupation if the Reserved Matters Approval has been granted.
2. The Landowner covenants not to Occupy or permit Occupation until the Travel Plan Monitoring Fee has been paid to the County Council

Signed as a deed by)
AMAZON UK SERVICES LIMITED)
acting by two directors)

Phaedra Andrews

DocuSigned by:
[Redacted Signature]
EC4A7068DE4844B...

Signature of director

Stuart Morgan

DocuSigned by:
[Redacted Signature]
BABB8B26E2E5499...

Signature of director