

Dated 22nd October

2020

EAST SUFFOLK COUNCIL (1)

and

SUFFOLK COUNTY COUNCIL (2)

and

CUBITT PROJECTS LIMITED (3)

**DEED OF VARIATION RELATING TO LAND AT OLD STATION WORKS,
WESTERFIELD ROAD, WESTERFIELD, SUFFOLK**

This Deed is made on the 22nd day of October

2020 by

EAST SUFFOLK COUNCIL of East Suffolk House, Riduna Park, Station Road, Melton, Suffolk IP12 1RT ('the Council') (1) and

SUFFOLK COUNTY COUNCIL of Endeavour House, 8 Russell Road, Ipswich, Suffolk IP21 2BX ('the County Council') (2) and

CUBITT PROJECTS LIMITED (Co Regn No 4992297) of 260 The Quorum, Barnwell Road, Cambridge CB5 8RE ('the Owner') (3)

WHEREAS

1. The Council is the Local Planning Authority and the County Council is the Highways and Transportation Authority for the area within which the land at Old Station Works, Westerfield Road, Westerfield, Suffolk shown edged red on plan no 387-P-104-R4 attached hereto ('the Site') is situated and each is a body by which the obligations contained in the 2019 Agreement and this Deed are enforceable under Section 106 of the Town and Country Planning Act 1990.
2. The Council (1) and the County Council (2) and the Owner (3) entered into an Agreement under Section 106 of the Town and Country Planning Act 1990 on 5th June 2019 in connection with the development of the Site pursuant to planning permission number DC/18/3850/OUT.
4. The Owner is the owner of the Site free from encumbrances under Title No SK261253.
5. The Owner has applied to the Council under application no DC/20/1712/VOC for planning permission to carry out the Development of the Site without complying with certain conditions attached to planning permission DC/18/3850/OUT. The Council has agreed to approve the said application subject to the Owner entering into this Deed.
6. This Deed is supplemental to the 2019 Agreement.

THIS DEED WITNESSES as follows:

1. In this Deed the following terms have the following meanings :

the 2019 Agreement an Agreement under Section 106 of the Town and Country Planning Act 1990 entered into on 5th June 2019 by the Council (1) and the County Council (2) and the Owner (3) in connection with the development of the Site pursuant to planning permission number DC/18/3850/OUT

the New Permission planning permission for the Development granted pursuant to application no DC/20/1712/VOC

2. This Deed is made pursuant to Section 106A of the Town and Country Planning Act 1990 and all other enabling powers to vary the terms of the 2019 Agreement, the terms of which shall continue to be binding and enforceable against the Owner and its successors in title to the Site and assigns and persons claiming under or through it.

- 3.1 Except as expressly varied by this Deed in clause 3.2 below the provisions of the 2019 Agreement (including the definition of 'the Site') shall remain fully in force.

- 3.2 The 2019 Agreement is forthwith varied in relation to the Site as follows :

- (i) In clause 1 the following definitions are added :

“the Development” the redevelopment of the Site for a mixed use scheme comprising up to 75 dwellings (C3 Use Class), approximately 1,285 sq m of commercial floorspace (16 units of Class B1 of which one will be a flexible B1/D1 Use and 1 unit of Use Class A1), parking, publicly accessible open space and associated works pursuant to either planning permission no DC/18/350/OUT or the New Permission

“the Commercial Development” that part of the Development comprising approximately 1,285 sq m of commercial floorspace (16 units of Class B1 of which one will be a flexible B1/D1 Use and 1 unit of Use Class A1), parking for such floorspace and associated works

“the Residential Development” that part of the Development comprising 75 dwellings (C3 Use Class), parking for such dwellings, publicly accessible open space and associated works.

- (ii) A new clause 7.12 is added as follows : ‘The covenants herein shall not bind or be enforceable against any owner or occupier of any part of the Commercial Development’.
- (iii) In the Third Schedule paragraph 1.1 the words ‘prior to Commencement of Development’ are deleted and replaced by the words ‘prior to Commencement of the Residential Development’.
- (iv) In the Third Schedule paragraph 1.3 the words ‘Not to Commence Development’ are deleted and replaced by the words ‘Not to Commence the Residential Development’.
- (v) In the Third Schedule paragraph 2.1 the words ‘prior to the Commencement of the Development’ are deleted and replaced by the words ‘prior to the Commencement of the Residential Development’.
- (vi) In the Third Schedule a new paragraph 4.1 is added as follows : ‘Not to Commence the Residential Development until the Habitat Mitigation Contribution has been paid to the Council’.

4.1 A copy of this Deed shall be registered by the Council as a local land charge for the purposes of the Local Land Charges Act 1975.

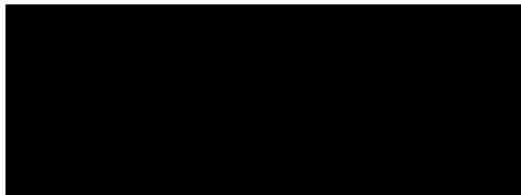
- 4.2 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after they shall have parted with their entire interest in the Site but without prejudice to their liability for any subsisting breach arising prior to parting with such interest.
- 4.3 Nothing contained or implied in this Deed shall prejudice or affect the rights powers, duties and obligations of the Council or the County Council in the exercise of its functions as a local planning authority or a highway or transportation authority under any public or private statute, bylaw or regulation.
- 4.4 On or before completion of this Deed the Owner shall pay the Council's and the County Council's reasonable legal costs incurred in the negotiation, preparation and completion of this Deed.

THIS DEED has been executed and delivered as a Deed by the parties on the date first above written

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



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



EXECUTED as a DEED by)

CUBITT PROJECTS LIMITED)

in the presence of :)

