

Dated 3 MARCH

2021

BABERGH DISTRICT COUNCIL

and

SUFFOLK COUNTY COUNCIL

**PLANNING OBLIGATION UNDER SECTION 106
OF THE TOWN AND COUNTRY PLANNING
ACT 1990**

relating to land at The Former Babergh District Council Offices,
Corks Lane and Bridge Street, Hadleigh IP7 6SJ
(Planning Application reference number DC/18/04966)

THIS DEED is dated

3 MARCH

2021

PARTIES:

- (1) **Babergh District Council** of Endeavour House 8 Russell Road Ipswich Suffolk IP1 2BX (referred to as "**the Council**" and until such time as it ceases to have an interest in the Site, "**the Owner**")

- (2) **Suffolk County Council** of Endeavour House 8 Russell Road Ipswich Suffolk IP1 2BX (referred to as "**the County**")

together referred to as "**the Parties**"

INTRODUCTION

- (A) The Council is the local planning authority for the purposes of the Act for the area within which the Site is situated
- (B) The County is a local highway authority (except for trunk roads) the local education authority local library authority local waste authority and is also the local planning authority for the purposes of the Act and is entering into this Deed to act as an Enforcing Authority of the obligations contained in this Deed
- (C) The Council has applied for the Permission under planning reference DC/18/04966 for the redevelopment on the Site to provide fifty seven (57) Dwellings (Use Class C3) with private amenity areas parking fencing landscaping open space and refuse facilities access roads and associated works and infrastructure incorporating the part demolition and part retention and conversion of the existing office buildings (including the retention and conversion of The Maltings, No's 21 & 23 Bridge Street, River View & The Cottage and demolition of Bridge House), site of the former Babergh District Council Offices & associated land ("**the Planning Application**")
- (D) Permission has been resolved to be granted for the Development subject to conditions and subject to the prior completion of this Deed
- (E) The Council is the freehold owner of the Site free from encumbrances
- (F) The Council and the County consider that the Development should not take place until certain restrictions regulating the use of the Site are imposed in the manner hereafter appearing and pursuant to Section 106 of the Act the Parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed

- (G) The Council and the County (as appropriate) are 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)

NOW THIS DEED WITNESSES AS FOLLOWS:

1. DEFINITIONS

In this Deed the following expressions have the following meanings:

“Act”	The Town and Country Planning Act 1990 (as amended)
“Commencement”	The date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development is first carried out on the Site other than (for purposes of this Deed and for no other purpose); operations consisting of site clearance, demolition, archaeological investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, ground surveys, erection of temporary fences and hoardings and contractors compounds, temporary display of site notices and/or advertisements and ‘Commence’ and ‘Commenced’ will be construed accordingly
“Development”	The Development of the Site as in accordance with the Permission
“Demountable Sports Mitigation Fencing”	The chain link fence, substantively in the form as described in the Foresport Fencing quotation dated 7 th October 2019 (reference: NH100719) (or as agreed with the Council in writing) installed in the locations detailed on the attached Proposed Cricket Fence Elevations Plan (plan number E-00-A-128/P1 dated 11/09/20) and the Proposed Cricket Fence Plan (plan number P-00-A-125/P1 dated 11/09/20)

“Dwelling”	A dwelling to be built on the Site as part of the Development
“Enforcing Authority”	Means the County until such time the Council ceases to have an interest in the Site after which time it means the Council
“Habitats Sites”	Means those sites on the Suffolk Coast which would be included within the definition at regulation 8 of the Conservation of Habitats and Species Regulations 2017 for the purpose of those regulations
“Habitats Sites Mitigation Contribution”	means the sum of £6,947.73 (six thousand nine hundred and forty seven pounds and seventy three pence) (Index Linked) calculated using the Habitat Mitigation Contribution Calculation to be paid by the Owner to the Enforcing Authority as a contribution towards the impact of development on the Habitats Sites
“Habitats Sites Mitigation Contribution Calculation”	the sum of £121.89 (one hundred and twenty one pounds and eighty nine pence) x (multiplied by) the total number of new Dwellings proposed pursuant to the Permission to calculate the Habitats Sites Mitigation Contribution
“Index”	means the All-in Tender Price Index published by the Building Costs Informative Service from time to time (or if such Index ceases to exist such other Index as agreed with the Enforcing Authority in writing)
“Index Linked”	<p>Any sum referred to in this Deed shall be increased by an amount equivalent to the increase in the Index from the date of the grant of Permission until the date on which the Habitats Sites Mitigation Contributions is payable using the formula</p> $A=B \times C/D$ <p>A – the sum payable under this Deed B – the original sum calculated C – the Index for the month 2 months before the date on which the Habitat Mitigation Contribution is payable</p>

D – the Index for the month 2 months before the date of the grant of the Permission

“Interest”	interest at four (4) per cent above the base lending rate of the Bank of England from time to time
“Occupation”	occupation of any Dwelling on the Site for the purposes permitted by the Permission and occupation would be deemed to have taken place when the County have evidence of the occupation of any Dwelling on the Site 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
“Permission”	The planning permission subject to conditions as may be granted by the Council pursuant to the Planning Application or on appeal by the Planning Inspectorate such planning permission
“Plan”	The plan marked Site Plan” attached to this Deed
“Site”	Means the land described in the First Schedule against which this Deed may be enforced and as shown edged red as for identification purposes only on the Plan
“Trigger”	Means the date of Commencement and any trigger or threshold in this Deed linked to the taking of specified steps, payment of money, or linked to the prohibition of a specified action

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

2 CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.
- 2.4 Wherever there is 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.
- 2.5 Any reference to an Act of Parliament or Directive of the European Union shall include any modification, extension or re-enactment of that Act or Directive 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 Act or Directive or deriving validity from it.
- 2.6 Any references to any party to this Deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the County and the Council the successors to its respective statutory functions.
- 2.7 The headings are for reference only and shall not affect construction.
- 2.8 Any covenant by the Owner not to do an act or thing shall be deemed to include an obligation to use all reasonable endeavours not to permit or suffer such act or thing to be done by another person where knowledge of the actions of the other person is reasonably to be inferred.
- 2.9 Any notices required to be given under the terms of this Deed may (in addition to any other valid method of service) be given or served by sending the same by recorded

delivery post addressed to the party to or upon whom it is to be given or served at the address for that party given in this Deed or such other address in the United Kingdom as that party may by notice to the other parties hereto or their agent stipulate as that party's address for service of notice pursuant to this Deed or if not such address is given or stipulated at that party's last known address and any notice so given or served shall be deemed to be received and the date on which it is given or served shall be deemed to be 48 hours after posting.

3. LEGAL BASIS

- 3.1 This Deed is made pursuant to Section 106 of the Act and Section 111 of the Local Government Act 1972 and all other enabling powers and the covenants and obligations contained in this Deed are planning obligations for the purposes of Section 106 of the Act enforceable by the Enforcing Authority
- 3.2 Covenants given by more than one party can be enforced against them individually or jointly
- 3.3 A reference to an act of Parliament includes any later modification or re-enactment, including any statutory instruments made under that act, and reference to a gender or person includes all genders or classes of person
- 3.4 Any covenant in this Deed not to do something includes an obligation not to allow or permit it to be done
- 3.5 This Deed is governed by and interpreted in accordance with the law of England

4. COVENANTS

- 4.1 The Owner covenants with the Enforcing Authority so as to bind himself and his successors in title to observe and perform the obligations and stipulations contained in this Deed
- 4.2 The Enforcing Authority covenants with the Owner to comply with its obligations contained in this Deed

5. OTHER PROVISIONS

- 5.1 No person will be liable for any breach of this Deed if he no longer has an interest in the Site or that part of the Site in respect of which such breach occurs (unless the breach occurred before he disposed of his interest)
- 5.2 The Owner confirms that they are the owner of the Site with full power to enter into this Deed and that there is no person or body whose consent is necessary to make this Deed binding on all interests in the Site
- 5.3 The covenants, restrictions and requirements contained in this Deed shall not be enforceable against:
- 5.3.1 individual purchasers or lessees of Dwellings constructed on the Site pursuant to the Permission or their mortgagees where (in relation to a breach) that breach occurs after that individual purchaser or lessee has completed the purchase or lease of the Dwelling or has entered into a binding contract for such purchase or lease
- 5.3.2 any statutory undertaker or other person who acquires any part of the Site or an interest in it for the purposes of the supply of electricity gas water telecommunications highways or any other services in connection with the Development of the Site.
- 5.4 On completion of this Deed the Owner will pay the Council and County's reasonable legal costs in connection with this Deed
- 5.5 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999
- 5.6 If any provision of this Deed is held to be invalid, illegal or unenforceable it will not affect the remaining provisions
- 5.7 No waiver, express or implied, by the Enforcing Authority constitutes a continuing waiver, nor prevents the Enforcing Authority from enforcing any of the provisions in this Deed

6. DISPUTES

- 6.1 If any dispute is not resolved between the Parties, any of the Parties may refer it for determination by an expert. The expert will be appointed by agreement between the parties or, in default of agreement, by the President for the time being of the Royal Institution of Chartered Surveyors and the expert's decision shall be final and binding
- 6.2 Nothing in this Clause will apply to the recovery of liquidated sums or prevent the parties from commencing or continuing court proceedings

7. INTEREST AND VAT

- 7.1 If any payment due to the Enforcing Authority is paid late interest will be added from the date payment is due to the date of payment at the rate of 4% above the base lending rate of the Bank of England from time to time
- 7.2 All payments under this Deed are exclusive of value added tax (VAT) and any VAT due must also be paid

8. NOTIFICATIONS

- 8.1 Any notice or written communication given under this Deed is validly given if hand delivered or sent by recorded delivery post to the address set out at the beginning of this Deed, unless written notification of another address has been received
- 8.2 The Owner will notify Chief Planning Officer and the Enforcing Authority in writing of the anticipated Trigger seven (7) days in advance of each anticipated date and the actual Trigger within seven (7) days of each actual date
- 8.3 If the Owner disposes of their interest in all or part of the Site they will notify the Chief Planning Officer and the Enforcing Authority within seven (7) days of the name and address of the new owner and sufficient details to identify the Site or part of the Site PROVIDED THAT the Owner shall not be required to give such notice when disposing of individual Dwellings constructed pursuant to the Permission

9 **FUTURE PERMISSIONS**

9.1 Subject to the remainder of this Clause 9 nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Permission) granted (whether or not on appeal) after the date of this Deed.

9.2 In the event that any new planning applications are made in respect of the Development pursuant to Section 73 of the Act then with effect from the date that the new planning permission is granted pursuant to Section 73 of the Act:

9.2.1 the planning obligations in this Deed shall in addition to binding the Site in respect of the Permission shall also bind the Site in respect of any planning permission granted pursuant to Section 73 of the Act unless the Council requires otherwise; and

9.2.2 the definitions of "Planning Application", "Development" and "Permission" shall be assumed to include references to any applications under Section 73 of the Act, the planning permissions granted thereunder and the development permitted by such subsequent planning permissions

PROVIDED THAT nothing in this Clause 9 shall fetter the discretion of the Council in determining any applications under Section 73 of the Act and the appropriate nature and/or quantum of planning obligations in so far as they are materially different to those contained in this Deed and required pursuant to a determination under Section 73 of the Act (whether by way of a new Deed or supplemental Deed pursuant to Section 106 of the Act or a modification pursuant to Section 106A of the Act).

FIRST SCHEDULE

OWNERSHIP DETAILS OF THE SITE

The land shown edged red for identification purposes only on the Plan consisting of the following parcels of land:

Part of the Freehold land known as the Council Offices, Corks Lane, Hadleigh Ipswich IP7 6SJ which land is registered at the Land Registry under title number SK314669;

Freehold land known as land on the west side of Bridge Street, Hadleigh which is registered at the Land Registry under title number SK317955;

Freehold land known as land on the north side of Corks Lane, Hadleigh which is registered at the Land Registry under title number SK314748;

SECOND SCHEDULE
Habitats Sites Mitigation Contribution

The Owner for themselves and their successors in title to the Site covenant as follows:-

- 1 To notify the Enforcing Authority and the County prior to Commencement of Development
- 2 Prior to the Commencement of Development in respect of the development permitted pursuant to the Permission the Owner shall pay to the Enforcing Authority the Habitats Sites Mitigation Contribution
- 3 Not to cause or permit Commencement of Development until the Habitats Sites Mitigation Contribution has first been paid to the Enforcing Authority
- 4 In the event that the Habitats Sites Mitigation Contribution remains unpaid, Interest will be payable from the date that the sum fell due until the date of actual payment
- 5 Any notice or other written communication relating this Deed for the Council shall be addressed to the Chief Planning Officer, Babergh District Council, Endeavour House, 8 Russell Road Ipswich IP1 2BX
- 6 Any notice or other written communication relating to this Deed for the County shall be addressed to the Executive Director of Growth, Highways and Infrastructure (or a duly appointed successor) Endeavour House 8 Russell Road Ipswich Suffolk IP1 2BX

THIRD SCHEDULE

Covenants by the Council with the County

The Council covenants with the County as follows:

1. to indemnify the County against all costs claims and demands in connection with its obligations in this Deed as Enforcing Authority including but not limited to monitoring compliance where requested and enforcement of any obligations breached
2. to accept payment of any financial contribution and deposit the same into an interest bearing account.
3. to apply the financial contributions and any interest accrued in accordance with the obligations contained in this Deed

FOURTH SCHEDULE

Cricket Mitigation

The Owner for themselves and their successors in title to the Site covenant as follows:-

1. Prior to the Occupation of any Dwelling on the Site to install the Demountable Sports Mitigation Fencing
2. Prior to the installation of any part of the Demountable Sports Mitigation Fencing, the Owner shall inform the Enforcing Authority in writing of any re-positioning of any part of the Demountable Sports Mitigation Fencing which may be deemed necessary and shall not proceed with installation until the Enforcing Authority has given written agreement to this re-positioning

IN WITNESS whereof the parties hereto have executed this document as a Deed on the day and year first before written.

**THE COMMON SEAL OF
BABERGH DISTRICT COUNCIL** was
affixed in the presence of:

Authorised Officer

Signature



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

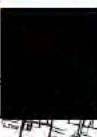
Authorised Officer

Signature:



24844

440



A1

NOTES
1. This drawing is a site plan for the proposed cricket pitch and practice nets. It is intended for use in conjunction with the other drawings in this set.
2. The site plan shows the location of the pitch and nets within the site boundaries. The pitch is shown in green and the nets are shown in dark green.
3. The site plan also shows the location of the buildings and other structures on the site.
4. The site plan is drawn to a scale of 1:500.
5. The site plan is drawn in accordance with the requirements of the Building Regulations 2010.



FOR INFORMATION

S2

**Hamson
Barron
Smith**

Architectural Services
www.hamsonbarronsmith.com

Hamson
Barron
Smith
30 Crown Road
Norwich, NR1 3JZ
T: +44 (0) 1603 251710

RIBA Chartered Practice | RIBA Client Advisor | RIBA Chartered | RIBA Approved
Drawn by: JAS / MSB | Checked by: JAS / MSB

Client: Babergh Growth Ltd
290 Fibers Lane, Norwich, NR6 6ED.

Project: The Former Babergh District Council HQ
Corks Lane, Hadleigh, Ipswich, IP7 6SA

Title: Proposed Cricket Fence Plan

Scale: 1:50
Date: Sept. 2020
Sheet: 01 of 01

Project No: 101288-HBS-00 -P-00-A-
Revision: 125

Drawn by: JAS / MSB
Checked by: JAS / MSB
Project: 101288-HBS-00 -P-00-A-
Revision: 125





DATE: 11/01/2020
 DRAWING NO: 101288-HBS-00
 PROJECT: Proposed Cricket Fence Elevations

A1

NOTES:
 1. All dimensions are in millimeters unless otherwise stated.
 2. The drawing is for information only and does not constitute an offer of any service.
 3. The drawing is for information only and does not constitute an offer of any service.

PROPOSED FOR: [Redacted]

DATE: 11/01/2020
 CHECKED BY: [Redacted]
 DATE: 11/01/2020

FOR INFORMATION

S2

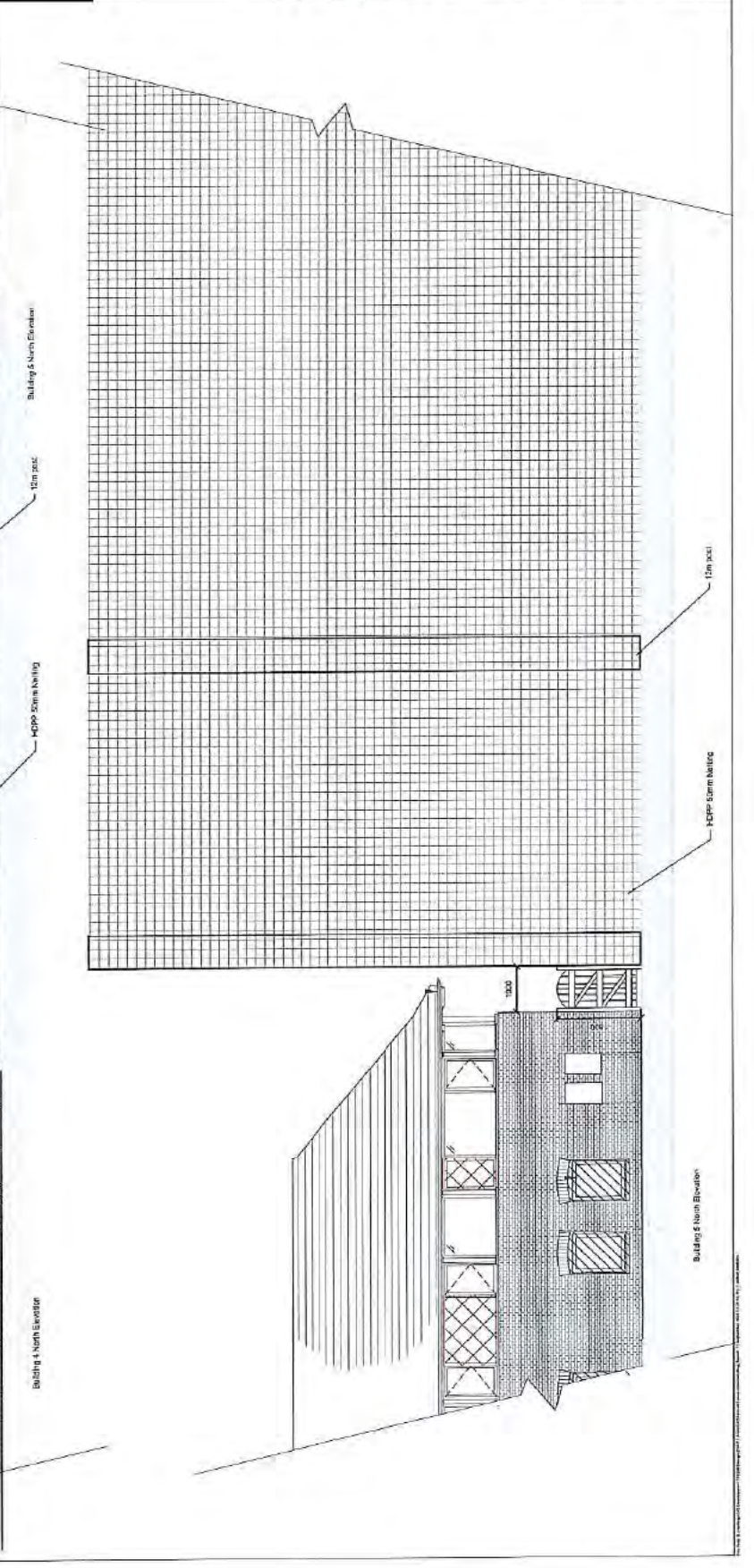
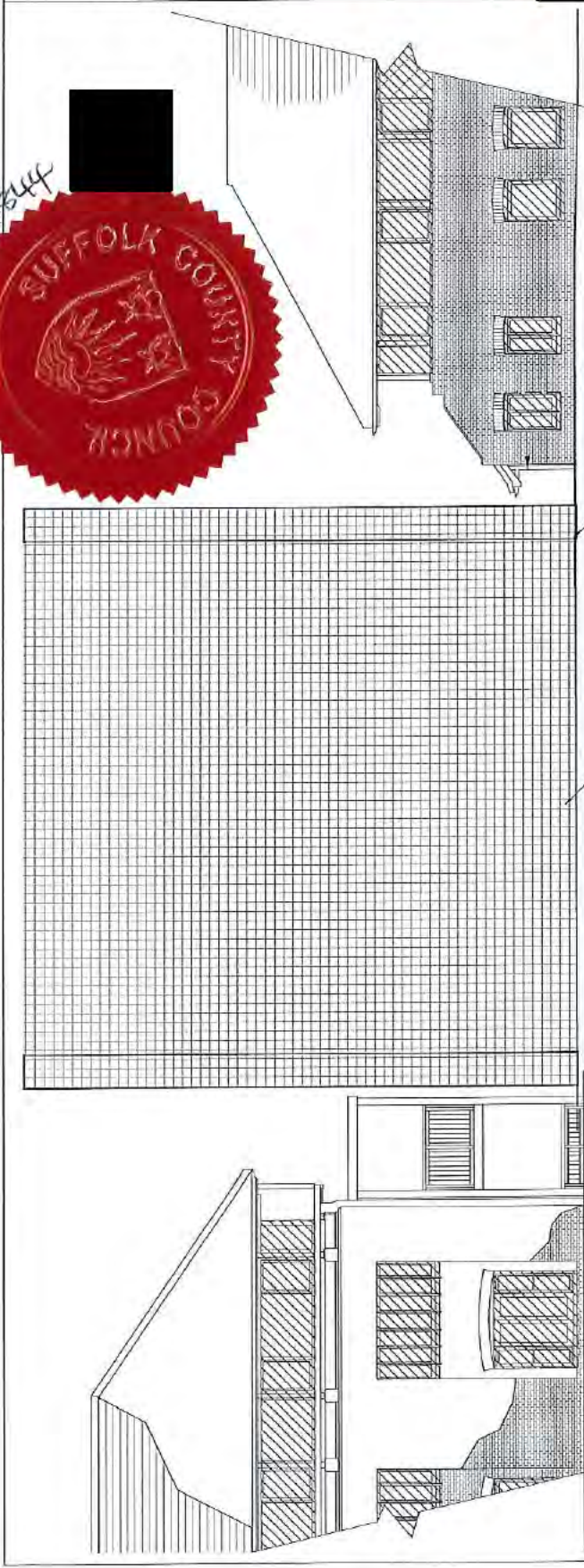
Hamson Barron Smith
 Norwich
 The Old School
 30 Down Road
 Norwich, Norfolk, NR1 3DT
 T: +44 (0) 1603 227115

Barbergh Growth Ltd
 280 Filers Lane, Norwich, NR6 5EQ

The Former Barbergh District Council HQ
 Corlis Lane, Hadleigh, Ipswich, IP7 8DA

PROPOSED FOR: [Redacted]
 PROJECT: Proposed Cricket Fence Elevations

SCALE	DATE	BY	CHKD	DATE
1:50	11/01/2020	[Redacted]	[Redacted]	11/01/2020
101288-HBS-00 -E-00-A-	128	[Redacted]	[Redacted]	P1



Notes:
 Drawings are based on survey data and may not accurately represent what is physically present.
 Do not scale from this drawing. All dimensions are to be verified on site before proceeding with the work.
 All dimensions are in millimeters unless noted otherwise.
 Purcell shall be notified in writing of any discrepancies.

Key Plan
 not to scale



4140



ISSUE	DATE	DRAWN	CHECKED	DESCRIPTION
C	14/12/2018	AR	AR	Site boundary amended
E	04/12/2018	AR	AR	Site boundary revised
A	04/12/2018	SO	AR	
First Issue 01 Nov 2018				

CLIENT
 Babergh District Council

PROJECT
 Redevelopment of BDC Offices

DRAWING TITLE
 Site Location Plan

SIZE & SCALE
 A4L 1:1250

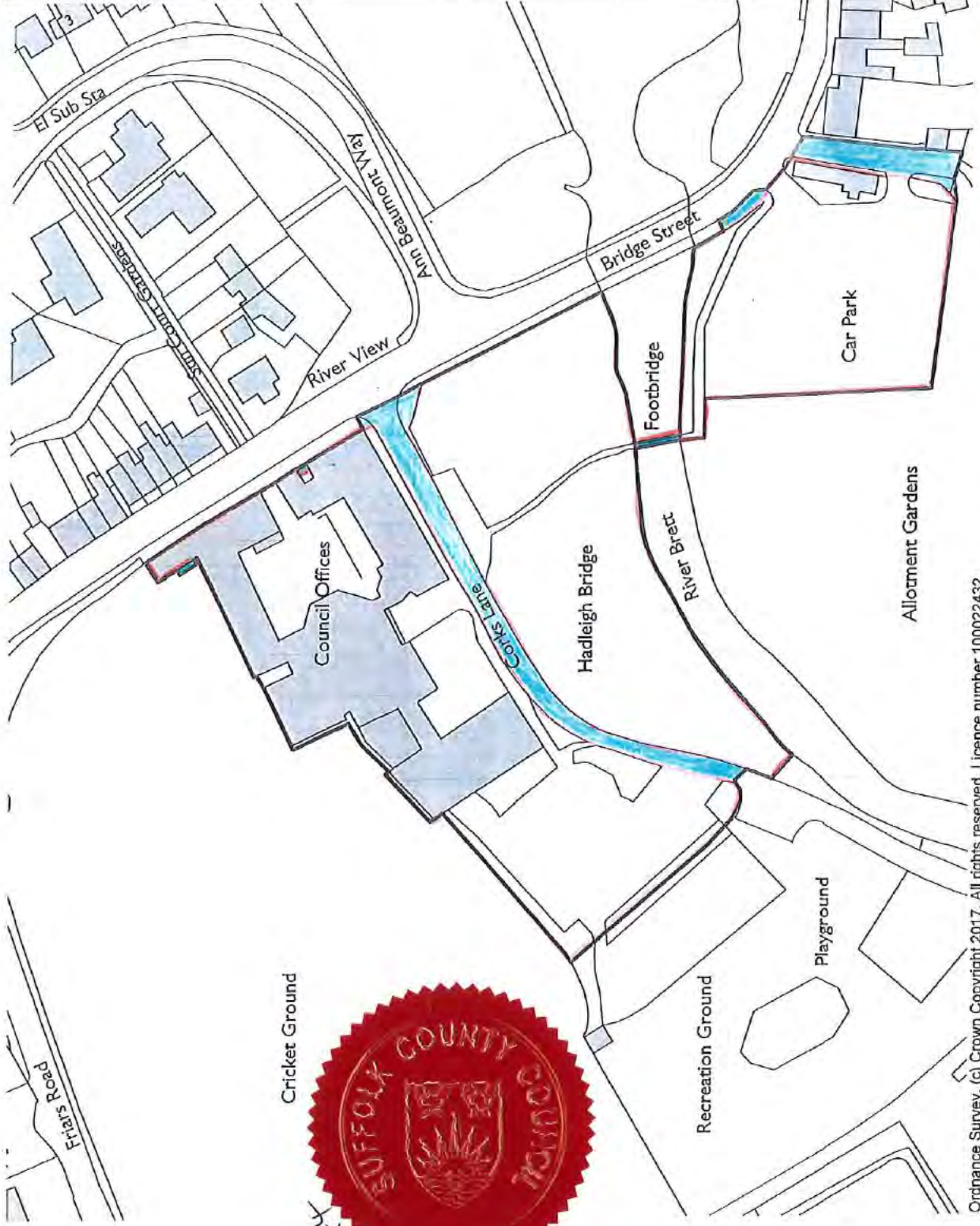
DRAWING STATUS
 ISSUED FOR PLANNING

JOB NUMBER 238410

DRAWING NO. 001

REVISION C

PURCELL



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1 Site Plan
 001 1:1250 @ A4



Cricket Ground

24844

5, New Hall, Babergh Road, Easton, 0203 78001. www.purcell.com. 01206 250000. 100022432. 100022432. 100022432. 100022432.

