

DATED

7th October 2021

**SUPPLEMENTAL AGREEMENT UNDER SECTION 106A OF THE TOWN &
COUNTRY PLANNING ACT 1990 RELATING TO LAND AT WESTERFIELD
HOUSE, HUMBER DOUCY LANE, IPSWICH**

between

IPSWICH BOROUGH COUNCIL

and

SUFFOLK COUNTY COUNCIL

and

WESTERFIELD HOUSE LIMITED

and

BARCLAYS BANK PLC

THIS DEED is dated 7th October 2021

- (1) IPSWICH BOROUGH COUNCIL of Grafton House, 15-17 Russell Road, Ipswich, Suffolk, IP1 2DE ("the Borough Council").
- (2) SUFFOLK COUNTY COUNCIL of Endeavour House 8 Russell Road, Ipswich, Suffolk, IP1 2BX ("the County Council")
- (3) WESTERFIELD HOUSE LIMITED (Company Registration Number 1673119) whose registered office is 170 Colchester Road, Ipswich, Suffolk, IP4 4RS ("the Owner")
- (4) BARCLAYS BANK PLC (Company Registration Number 1026167) whose registered office is at Lending Operations PO Box 299 Birmingham B1 3PF ("the Mortgagee")

BACKGROUND

- (A) The Borough Council is the local planning authority for the purposes of the Town and Country Planning Act 1990 for the area in which the Property is situated.
- (B) The Owner is the freehold owner of the Property subject to a mortgage in favour of the Mortgagee but otherwise free from encumbrances.
- (C) The Mortgagee is the registered proprietor of the charge dated 11th October 2013 + 19th February 2014 referred to in entry number 3, 4, 5 + 6 of the charges register of title number SK37194 and has agreed to enter [redacted] into this deed to give its consent to the terms of this deed.
- (D) On 22nd October 2019 the Borough Council, the County Council, the Owner and the Mortgagee entered into the Original Agreement.
- (E) Without prejudice to the terms of the other covenants contained in the Original Agreement the parties have agreed to vary the terms of Original Agreement as set out in this deed.
- (F) This agreement is is supplemental to the Original Agreement.

AGREED TERMS

1. INTERPRETATION

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

1.1 Definitions:

Original Agreement: the agreement made under section 106 of the Town and Country Planning Act 1990 dated 22nd October 2019 between the Borough Council, the County Council, the Owner and the Mortgagee.

- 1.2 Unless the context otherwise requires, all words and phrases defined in the Original Agreement shall have the same meaning in this deed.
- 1.3 Clause headings shall not affect the interpretation of this deed.
- 1.4 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to any party shall include that party's personal representatives, successors or permitted assigns and in the case of the Council the successors to its respective statutory functions.
- 1.8 Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.9 Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.10 Unless the context otherwise requires, references to clauses are to the clauses of this deed.
- 1.11 Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.12 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.

2. STATUTORY PROVISION

This deed is made pursuant to the provisions of sections 106 and 106A of the Town and Country Planning Act 1990, section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and any other enabling powers.

3. VARIATIONS TO THE ORIGINAL AGREEMENT

3.1 The following paragraph shall be inserted after paragraph (C) of the Recitals to the Original Agreement:

The Mortgagee is the registered proprietor of the charge dated ^{11th October 2013} referred to in entry number ⁵⁺⁴⁺⁵⁺⁶ of the charges register of Title Number SK37194 ⁺ and has agreed to enter ^{19th February 2014} into this deed to give its consent to the terms of this deed.

3.2 The following paragraph shall be inserted after paragraph 7 of the Operative Provisions to the Original Agreement.

References in this Deed to the Mortgagee shall include reference to successors in title and permitted assigns.

3.3 In all other respects the Original Agreement (as varied by this deed) shall remain in full force and effect.

4. COVENANTS TO THE COUNCIL

The Owner and the Mortgagee covenants to observe and perform the covenants, restrictions and obligations contained in the Original Agreement as varied by this deed.

5. MORTGAGEE'S CONSENT

The Mortgagee consents to the completion of this deed and acknowledges that from the date of this deed the Property shall be bound by the terms of this deed, as if it had been executed and registered as a land charge prior to the creation of the Mortgagee's interest in the Property.

6. LOCAL LAND CHARGE

This deed shall be registered as a local land charge.

7. ENDORSEMENT

Promptly following completion of this deed the Borough Council shall endorse a memorandum of variation on the Original Agreement in the following terms:

"This Agreement has been varied by a supplemental agreement dated and made between Ipswich Borough Council (1) Suffolk County Council (2) Westerfield House Limited (2) Barclays Bank Plc (4)

8. VALUE ADDED TAX

8.1 All consideration given in accordance with the terms of this deed shall be exclusive of any VAT properly paid.

8.2 If at any time VAT is or becomes chargeable in respect of any supply made in accordance with the terms of this deed then to the extent that VAT has not been previously charged in respect of that supply the party making the supply shall have the right to issue a VAT invoice to the party to whom the supply was made and the VAT shall be paid accordingly.

9. THIRD PARTY RIGHTS

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

10. GOVERNING LAW

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

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

The common seal of IPSWICH BOROUGH COUNCIL was hereunto affixed in the presence of:

Authorised Officer

The common seal of SUFFOLK COUNTY COUNCIL was hereunto affixed in the presence of:



ed Signatory



Executed as a Deed by
WESTERFIELD HOUSE LIMITED
acting by
a Director

in the presence of:

Executed as a Deed for and on
behalf of BARCLAYS BANK PLC by

its duly appointed Attorney under a Power