

DATED

27 November

2024

- (1) Ipswich Borough Council
  - (2) Suffolk County Council
  - (3) M&N Ipswich Management Ltd
- and
- (4) Rental Properties Limited

**Deed of Variation to a Section 106 Agreement dated 08 August 2020**

under section 106 of the Town and Country Planning Act 1990

relating to the development of land/buildings at 22 Stoke Street, Ipswich IP2 8BX and to the rear of 14-22 Stoke Street, Ipswich (ref IP/23/00198/VC, IP/23/00197/VC and IP/23/00107/VC)

THIS DEED OF VARIATION is made the 27th day of November 2024

**BETWEEN**

- (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) **M&N Ipswich MANAGEMENT LTD** (Company registration number 03741694) whose registered office is at 170 Colchester Road, Ipswich, IP4 4RS ("the **First Owner**")
- (4) **RENTAL PROPERTIES LTD** (Company registration number 10755979) whose registered office is at 235 Foxhall Road, Ipswich, IP3 8NE ("the **Second Owner**")

**WHEREAS:-**

- (A) The Borough Council and the County Council are the local planning authorities for the purposes of the Town and Country Planning Act 1990 (the 1990 Act) for the area in which the Application Site is situated and by whom the obligations contained in this Deed are enforceable
- (B) The County Council is also the local highway authority (except for trunk roads) for the area within which the Application Site is situated.
- (C) The First Owner and Second Owner are the freehold owners of the Whole Site.
- (D) The First Owner is the freehold owner of the Application Site.
- (E) The Borough Council the County Council and Maybush Developments Limited entered into the Original Agreement pursuant to Section 106 of the Town and Country Planning 1990 Act ("1990 Act") and other enabling powers.
- (F) The Parties hereto entered into the First Variation pursuant to section 106 of the 1990 Act and other enabling powers.
- (G) The First Owner has submitted the Third, Fourth and Fifth Planning Applications to Ipswich Borough Council for permission to develop the Application Site in the manner and for the use set out in the Third Planning Application, the Fourth Planning Application and the Fifth Planning Application.
- (H) The Borough Council in accordance with powers delegated to officers has resolved to grant the Third Planning Permission, the Fourth Planning Permission and the Fifth Planning Permission subject to completion of this Deed.

**NOW THIS DEED WITNESSETH** as follows:-

1. **DEFINITIONS AND INTERPRETATION**

1.1 The provisions of the Principal Agreement shall remain in full force and effect except to the extent that they are expressly supplemented and varied by this deed

1.1 The definitions and rules of interpretation in this clause apply in this deed.

1.2 All words and phrases defined in the Principal Agreement shall have the same meaning in this deed save where the context otherwise dictates.

1.3 In this deed the following expression shall have the following meaning:

**Application Site:** that part of the Property known as 22 Stoke Street, Ipswich and registered at the Land Registry with title number SK261341.

**First Variation** the deed of variation dated 9 May 2023 made between Ipswich Borough Council (1) Suffolk County Council (2), M and M Management Ltd (3) and Rental Properties Ltd (4) to vary the terms of the Principal Agreement a copy of which is annexed hereto at Annex E.

**Original Agreement** the agreement made under section 106 of the TCPA 1990 dated 6 August 2020 between the Ipswich Borough Council (1) Suffolk County Council (2) and Maybush Developments Ltd (3) attached to this Deed at Annex D.

**Principal Agreement:** the Original Agreement as varied by the First Variation.

**Whole Site:** means the property known as 22 Stoke Street and land to the rear of 14-22 Stoke Street, Ipswich and registered at the Land Registry with title numbers SK261341 and SK409694 as more particularly described in the Principal Agreement excluding that part now registered with title number SK409693.

1.4 All references in this deed to clauses in the Principal Agreement are to clauses within the Principal Agreement.

1.5 Clause headings shall not affect the interpretation of this deed.

1.6 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.7 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.

1.8 Unless the context otherwise requires, words in the singular include the plural and in the plural shall include the singular.

- 1.9 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.10 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.
- 1.11 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.12 A reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.13 A reference to writing or written does not include fax or e-mail.
- 1.14 References to clauses, Schedules and plans (unless the context otherwise requires) are to clauses, Schedules and plans of this deed.
- 1.15 An obligation in this deed on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.16 Any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.17 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. ENABLING PROVISIONS**

- 2.1 This Deed is made pursuant to Section 106A of the 1990 Act, section 111 of the Local Government Act 1972, section 2 of the Local Government Act 2000 and all other statutory and enabling powers.

## **3. CONDITIONALITY**

- 3.1 With the exception of Clauses 6, 7 and 9 of this Deed (which shall come into effect on the completion of this Deed) none of the terms of this Deed shall come into effect until:
  - 3.1.1 the Borough Council has granted the Third Planning Permission, the Fourth Planning Permission and the Fifth Planning Permission; and
  - 3.1.2 the First Owner has Commenced development pursuant to the Original Planning Permission, the Third Planning Permission, the Fourth Planning Permission and the Fifth Planning Permission.
  - 3.1.3 The Second Owner has Commenced development pursuant to the Second Planning Permission.

4. **VARIATIONS TO THE PRINCIPAL AGREEMENT**

The following variations shall be made to the Principal Agreement which shall be read and construed and shall take effect as follows:

4.1 Under Clause 1, Definitions, of the Principal Agreement the following definitions shall be inserted:

"the Fifth Planning Application"	Means the planning application submitted by Khan & Co Limited to the Borough Council with reference IP/23/00198/VC to develop the Property.
"the Fifth Planning Permission"	Means the planning permission subject to conditions that may be granted by the Borough Council following the determination of the Fifth Planning Application and substantially in the form of the draft annexed to this Deed at the Fifth Annex
"the Fourth Planning Application"	means the application submitted by Khan & Co Limited to the Borough Council with reference IP/23/00107/VC to develop the Property.
"the Fourth Planning Permission"	means the planning permission subject to conditions that may be granted by Ipswich Borough Council following the determination of the Fourth Planning Application and substantially in the form of the draft annexed to this Deed at the Fourth Annex
"the Original Planning Permission"	means the planning permission subject to conditions as was granted pursuant to the Application.
"the Second Planning Permission"	means the planning permission subject to conditions as was granted by the Borough Council on 15 May 2023 pursuant to an application submitted by the Second Owner to the Borough

	Council with reference IP/22/0032/FUL.
"the Third Planning Application"	Means the application submitted by Khan & Co Limited to the Borough Council with reference IP/23/00197/VC to develop the Property
"The Third Planning Permission"	means the planning permission subject to conditions that may be granted by Ipswich Borough Council following the determination of the Third Planning Application and substantially in the form of the draft annexed to this Deed at the Third Annex

- 4.2 Under Clause 1.1, Definitions, of the Principal Agreement the definitions of 'the Permission' shall be deleted and the following definition shall be added:

"the Permission"	Means (as the context requires) a) The Original Planning Permission; or b) the Second Planning Permission; or c) the Third Planning Permission; or d) the Fourth Planning Permission; or e) the Fifth Planning Permission.
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- 4.3 The draft Third Planning Permission annexed in Annex A hereto shall be inserted as the third Annex within the Principal Agreement.
- 4.4 The draft Fourth Planning Permission annexed in Annex B hereto shall be inserted as the fourth Annex within the Principal Agreement.
- 4.5 The draft Fifth Planning Permission annexed in Annex C hereto shall be inserted as the fifth Annex within the Principal Agreement.

## 5. CONTINUATION OF THE AGREEMENT

- 5.1 The terms of the Principal Agreement shall continue in full force and effect as amended by this Deed and are binding subject to the provisions of this Deed and such terms as so supplemented and varied shall for all purposes (including but without limitation for the purposes of Section 2 of the Law of Property (Miscellaneous Provisions) Act 1989) be deemed to be incorporated into the Principal Agreement.

5.2 The First Owner and the Second Owner covenant to observe and perform the covenants restrictions and obligations contained in the Principal Agreement as varied by this Deed.

## **6. INVALIDITY OF CERTAIN PROVISIONS**

6.1 If any term of this Deed or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable the same shall be severable and the remainder of this Deed as to the application of such term to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each term and provision of this Deed shall be valid and enforced to the fullest extent permitted by law

## **7. REGISTRATION AS LOCAL LAND CHARGE**

7.1 The covenants in the Principal Agreement as varied by this Deed are planning obligations for the purposes of Section 106 and Section 106A of the 1990 Act and as such this Deed shall be registered in the Borough Council's register of Local Land Charges

7.2 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall forthwith cancel all the entries made in the register of local land charges in respect of this Deed.

## **8. LEGAL FEES**

8.1 The First Owner covenants to pay to the Borough Council prior to completion of this Deed their reasonable legal costs properly incurred in the negotiation, preparation and execution of this Deed.

8.2 The First Owner covenants to pay to the County Council on or prior to completion of this deed their reasonable legal costs properly incurred in the negotiation, preparation and execution of this Deed.

## **9. THIRD PARTY RIGHTS**

9.1 A person who is not a party to this deed shall not have any rights under, or in connection with, it by virtue of the Contracts (Rights of Third Parties) Act 1999.

## **10. GOVERNING LAW**

10.1 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.

**IN WITNESS** whereof this Deed was duly executed and delivered the day and year first before written.

THE COMMON SEAL of Ipswich Borough )  
Council was hereunto affixed )  
in the presence of- )



[Redacted signature]

Laura Hemmings

Authorised Officer

THE COMMON SEAL of Suffolk County )  
Council was hereunto affixed )  
in the presence of- )



[Redacted signature]

Authorised Officer

[Redacted signature]

Executed as a deed by M&N Ipswich  
Management Ltd acting by

A director in the presence of:

[Redacted signature]

Witness Signature:

Name... ANDREW ATTWELL .....

Address... ATTWELL SURFERS LTD SUN BURTON CO  
35-37 PRINCE STREET IPWICH IP1 1PU

Occupation... SURFER .....



Executed as a deed by **Rental Properties**

**Ltd** acting by

A director in the presence of

Witness Signature.....

Name..... NIRVAD ATTALL.....

Address..... ATTALL SOLIDITY LLP - SUN BUSINESS  
35-37 PROUD STREET WIMBORNE HANTS.....

Occupation..... SOLETR.....

**Annex A**

Third Annex - Draft Third Planning Permission

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



**To:** Mr Alan Howard  
KLH Architects Ltd  
The Old Steelyard  
Poplar Lane  
Sproughton  
IPSWICH  
IP8 3HL

**Agent for:**  
Khan And Company Ltd

Application Reference: IP/23/00197/VC

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**VARIATION OF CONDITIONS ATTACHED TO PLANNING PERMISSION**

Ipswich Borough Council, as local planning authority, hereby **GRANT** approval for:

*Removal or variation of Condition 15 of planning permission 19/00369/FUL (Demolition of single-storey extension to former Defiance Public House. Re-ordering of premises to provide two flats. Erection of buildings on land behind Defiance PH containing 29 flats) in order to obtain "the express written consent of the Local Authority" to carry out piling.*

at: Former Defiance Public House 22 Stoke Street Ipswich Suffolk IP2 8BX

in accordance with your application reference: IP/23/00197/VC received 15.03.2023.

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 **XXXXXXXXXX**, which is three years from the beginning of the date of the original notice.

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

1. The hereby-approved development shall be carried out in accordance with the following approved drawings:- Drawing no's 3637 - 0110 Rev P05, - 0111 Rev P05, - 0310 Rev P02, - 0311 Rev P01, - 0320 Rev P02, 5480 - 0400 P02, - 0401-0402 P02, - 0403 P01, - 0404 P01.
2. The hereby-approved development shall be carried out in accordance with the details approved pursuant to condition 2 of planning permission IP/19/00369/FUL (condition application refer IP/23/00100/CON).
3. Before any new foundations or external surfacing associated with the hereby-approved buildings or their vehicular areas are constructed, details of site levels shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
4. Before any new foundations associated with the hereby-approved development are constructed the following detail shall be submitted to and approved in writing by the Local Planning Authority. The approved works shall be provided before first occupation, made available for use in connection with the development and retained thereafter:-

i. foul and surface water drainage strategy

Before first occupation the following details/works approved pursuant to condition 4 of planning permission IP/19/00369/FUL (condition application refer IP/22/00743/CON) shall be provided, made available for use in connection with the development and retained thereafter:-

ii. refuse and recycling storage facilities and collection strategy, and

iii. refuse/recycling presentation area

Before first occupation the following details/works approved pursuant to condition 4 of planning permission IP/19/00369/FUL (condition application refer IP/23/00064CON) shall be provided, made available for use in connection with the development and retained thereafter:-

i. electric vehicle charging, including number and location

ii. vehicle parking including visitor parking and parking of service vehicles

5. None of the hereby-approved dwellings shall be first occupied until the following details have been submitted to and approved in writing by the Local Planning Authority. The approved works/measures shall be provided on first occupation and retained thereafter:-

i. biodiversity measures

ii. external lighting

iii. boundary treatments

iv. flood evacuation plan

On first occupation the following details/works approved pursuant to condition 5 of planning permission IP/19/00369/FUL (condition application refer IP/23/00064CON) shall be provided, made available for use in connection with the development and retained thereafter:-

i. cycle parking

6. None of the hereby-approved dwellings shall be first occupied until the existing footway fronting the site has been widened to 2 metres in accordance with details approved pursuant to condition 6 of planning permission IP/19/00369/FUL (condition application refer IP/22/01055/CON).
7. None of the hereby-approved dwellings shall be first occupied until the existing vehicular access has been improved, laid out and completed in all respects in accordance with Drawing No. 0111 Rev P04 and made available for use. Thereafter the access shall be retained in the specified form.
8. The gradient of the vehicular access shall not be steeper than 1 in 20 for the first 5 metres measured from the nearside edge of the adjacent metalled carriageway. Thereafter, the access driveway shall be constructed at a gradient not steeper than 1 in 8.
9. Notwithstanding the provisions of Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the existing visibility splays.
10. Unless otherwise approved, the hereby-approved development shall only be carried out in accordance with the Construction Management Plan updated 10.7.23 and Construction Surface Water Management Plan Dated: Sep 2023 Ref: 311-001-RP03 Rev 2 (both received pursuant to condition 10 of planning permission IP/19/00369/FUL (condition application refer IP/23/00805/CON)).
11. No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages,

maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

12. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.
13. The hereby-approved development shall only be carried out in accordance with the submitted Biodiversity Assessment, Energy Statement and Water Statement submitted with the application unless otherwise approved in writing with the Local Planning Authority.
14. Before commencement of internal layout works within Blocks 1 and 2, details of refuge areas and flood resistance and resilience measures shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
15. The finished floor level on the ground floor within Blocks 1 and 2 hereby-approved shall be no lower than 4.5 metres AOD.
16. No dwelling within Blocks 1 and 2 shall be occupied until the site investigation and post investigation assessment has been completed, submitted to and approved in writing by the Local Planning Authority, in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 19 of planning permission IP/19/00369/FUL and the provision made for analysis, publication and dissemination of results and archive deposition.
17. No dwelling shall be first occupied until details of hard and soft landscaping, including within the approved communal and parking areas as well as the respective management of these areas, shall be submitted to and approved in writing by the Local Planning Authority. The approved hard landscaping shall be provided before first occupation of any dwelling within Blocks 1 or 2 and soft landscaping shall be carried out in accordance with the implementation and monitoring programme agreed with the Local Planning Authority and in accordance with the relevant recommendations of the appropriate British Standards. 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. Thereafter the parking and communal areas shall be managed in accordance with the agreed details.

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

1. To identify the approved drawings for the avoidance of doubt.
2. To ensure a high standard of development.
3. To protect the amenity of neighbouring residents.
4. To enable adequate servicing to take place, to support sustainable transport and to enable vehicles to enter and exit the public highway in forward gear, in the interests of highway safety and to safeguard against flood risk.
5. To promote biodiversity, ensure a high standard of development, promote sustainable modes of travel, protect amenity and to safeguard against flood risk.

6. To secure appropriate improvements to the existing highway in the interests of highway safety.
7. To ensure that the access is designed and constructed to an appropriate specification and is brought into use before occupation of the development in the interests of highway safety.
8. To ensure that vehicles can enter and leave the public highway in a safe manner.
9. To ensure vehicles exiting the drive have sufficient visibility to enter the public highway safely and vehicles on the public highway have sufficient warning of a vehicle emerging in order to take avoiding action.
10. To protect against flood risk, in the interests of highway safety and to protect amenity.
11. & 12. To protect and prevent the pollution of the water environment (particularly groundwater associated with the underlying Secondary and Principal Aquifers, from potential pollutants associated with current and previous land uses) in line with National Planning Policy Framework (NPPF; paragraphs 170 and 178), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater Protection Position Statements (2017) A4 - A6, J1 - J7 and N7.
13. In the interests of biodiversity and to ensure a sustainable form of development.
14. & 15. To safeguard against the risk of flooding.
16. To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development.
17. To ensure a high standard of development.

## **INFORMATIVES**

1. 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](mailto:building.control@ipswich.gov.uk) or on telephone number: 01473 432951.
2. 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](http://www.gov.uk) or by telephone on 0300 060 6000.
3. There is a planning fee payable for applications in writing to discharge planning permission conditions. Forms for applications to discharge conditions are available from the Council's website.
4. The Council recommends the installation of an appropriate sprinkler system within the development.
5. In accordance with The Environmental Permitting (England and Wales) (Amendment) (No.2) Regulations 2016, Schedule 25, Part 1, these works may require a Flood Risk

Activity Permit if the applicant wants to do work in, under, over or within 8 metres (m) from a fluvial main river and from any flood defence structure or culvert or 16m from a tidal main river and from any flood defence structure or culvert. The River Gipping, is designated a 'main river'.

6. 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. 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.
7. This permission is subject to a related agreement under Section 106 of the Town and Country Planning Act 1990.

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

1. Core Strategy and Policies Development Plan Document (DPD) Review - Policies CS7 'The Amount of Housing Required', CS8 'Housing Type and Tenure', CS12 'Affordable Housing', CS17 'Delivering Infrastructure', DM1 'Sustainable Construction', DM2 'Decentralised Renewable or Low Carbon Energy', DM3 'Air Quality', DM4 'Development and Flood Risk', DM6 'Provision of New Open Spaces, Sports and Recreation Facilities', DM7 'Provision of Private Outdoor Amenity Space in New and Existing Developments', DM8 'The Natural Environment', DM9 'Protection of Trees and Hedgerows', DM10 'Green and Blue Corridors', DM12 'Design and Character', DM13 'Built Heritage and Conservation', DM14 'Archaeology', DM15 'Tall Buildings', DM18 'Amenity', DM21 'Transport and Access in New Developments', DM22 'Car and Cycle Parking in New Development', DM23 'The Density of Residential Development', DM34 'Delivery and Expansion of Digital Communications Networks'

Site Allocations and Policies DPD Review (2022) - Policy SP27 'Land with Planning Permission or Awaiting a Section 106 Agreement in the IP-One Area'

2. Other Guidance

Cycling Strategy SPD (2016)  
Low Emissions SPD (2021)  
Public Open Space SPD (2017)  
Reptile Strategy SPD (2021)  
Suffolk Coast RAMS (2020)  
Nationally Described Space Standards  
Space and Design Guidelines SPD (2015)  
Stoke Conservation Area Appraisal and Management Plan

**Dated:**

**Signed:**

James Mann MRTPI  
Head of Planning and Development  
Grafton House  
15-17 Russell Road  
Ipswich IP1 2DE

SEE NOTES BELOW/OVERLEAF

N.B. This 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. Notice of appeal relating to Advertising Consent must be served within 8 weeks of the date of this decision notice. Appeal notices, relating to refusal, for Householder and Minor Commercial applications must be served within 12 weeks. In all other cases, the notice of appeal must be served within 6 months. Definition of a Minor Commercial application can be found here:- <https://www.gov.uk/government/publications/planning-appeals-procedural-guide/procedural-guide-planning-appeals-england>
5. Appeals can be made online at [www.gov.uk/planning-inspectorate](http://www.gov.uk/planning-inspectorate) Alternatively, a paper appeal form can be requested by calling the Planning Inspectorate on 0303 444 5000.
6. 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
7. 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.
8. 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.
9. 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.
10. 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 1 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 2023.



**Annex B**

Fourth Annex - Draft Fourth Planning Permission

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



**To:** KLH Architects Ltd  
FAO Mr James Francis  
KLH Architects Ltd  
The Old Steelyard  
Poplar Lane  
Sproughton  
IPSWICH  
IP8 3HL

**Agent for:**  
Khan & Co Ltd

Application Reference: IP/23/00107/VC

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**VARIATION OF CONDITIONS ATTACHED TO PLANNING PERMISSION**

Ipswich Borough Council, as local planning authority, hereby **GRANT** approval for:

*Variation of Condition 1 (approved plans) of planning permission 19/00369/FUL to accommodate increases in floor to floor heights to allow for structural framing, floor build up and services.*

at: Former Defiance Public House 22 Stoke Street Ipswich Suffolk IP2 8BX

in accordance with your application reference: IP/23/00107/VC received 09.02.2023.

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 **XXXXXXXXXX**, which is three years from the beginning of the date of the original notice.

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

1. The hereby-approved development shall be carried out in accordance with the following approved drawings:- Drawing no's 3637 - 0110 Rev P05, - 0111 Rev P05, - 0310 Rev P02, - 0311 Rev P01, - 0320 Rev P02, 5480- 0400 P02, - 0401 - 0402 P02, - 0403 P01, - 0404 P01.
2. The hereby-approved development shall be carried out in accordance with the details approved pursuant to condition 2 of planning permission IP/ 19/00369/FUL (condition application refer IP/23/00100/CON).
3. Before any new foundations or external surfacing associated with the hereby-approved buildings or their vehicular areas are constructed, details of site levels shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
4. Before any new foundations associated with the hereby-approved development are constructed the following detail shall be submitted to and approved in writing by the Local Planning Authority. The approved works shall be provided before first occupation, made available for use in connection with the development and retained thereafter:-
  - i. foul and surface water drainage strategy

Before first occupation the following details/works approved pursuant to condition 4 of planning permission IP/19/00369/FUL (condition application refer IP/22/00743/CON) shall be provided, made available for use in connection with the development and retained thereafter:-

- ii. refuse and recycling storage facilities and collection strategy, and
- iii. refuse/recycling presentation area

Before first occupation the following details/works approved pursuant to condition 4 of planning permission IP/19/00369/FUL (condition application refer IP/23/00064CON) shall be provided, made available for use in connection with the development and retained thereafter:-

- i. electric vehicle charging, including number and location
- ii. vehicle parking including visitor parking and parking of service vehicles

5. None of the hereby-approved dwellings shall be first occupied until the following details have been submitted to and approved in writing by the Local Planning Authority. The approved works/measures shall be provided on first occupation and retained thereafter:-

- i. biodiversity measures
- ii. external lighting
- iii. boundary treatments
- iv. flood evacuation plan

On first occupation the following details/works approved pursuant to condition 5 of planning permission IP/19/00369/FUL (condition application refer IP/23/00064CON) shall be provided, made available for use in connection with the development and retained thereafter:-

- i. cycle parking

6. None of the hereby-approved dwellings shall be first occupied until the existing footway fronting the site has been widened to 2 metres in accordance with details approved pursuant to condition 6 of planning permission IP/19/00369/FUL (condition application refer IP/22/01055/CON).
7. None of the hereby-approved dwellings shall be first occupied until the existing vehicular access has been improved, laid out and completed in all respects in accordance with Drawing No. 0111 Rev P04 and made available for use. Thereafter the access shall be retained in the specified form.
8. The gradient of the vehicular access shall not be steeper than 1 in 20 for the first 5 metres measured from the nearside edge of the adjacent metalled carriageway. Thereafter, the access driveway shall be constructed at a gradient not steeper than 1 in 8.
9. Before the access is first used 'proposed' visibility splays shall be provided as shown on Drawing No. 619723-MLM-ZZ-XX-DR-TP-0004 Revision P01 (provided within the Transport Statement) and thereafter retained in the specified form. Notwithstanding the provisions of Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays.
10. Unless otherwise approved, the hereby-approved development shall only be carried out in accordance with the Construction Management Plan updated 10.7.23 and Construction Surface Water Management Plan Dated: Sep 2023 Ref: 311-001-RP03 Rev 2 (both received pursuant to condition 10 of planning permission IP/19/00369/FUL (condition application refer IP/23/00805/CON)).
11. No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-

term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

12. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.
13. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.
14. The hereby-approved development shall only be carried out in accordance with the submitted Biodiversity Assessment, Energy Statement and Water Statement submitted with the application unless otherwise approved in writing with the Local Planning Authority.
15. Before commencement of internal layout works within Blocks 1 and 2, details of refuge areas and flood resistance and resilience measures shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
16. The finished floor level on the ground floor within Blocks 1 and 2 hereby-approved shall be no lower than 4.5 metres AOD.
17. No dwelling within Blocks 1 and 2 shall be occupied until the site investigation and post investigation assessment has been completed, submitted to and approved in writing by the Local Planning Authority, in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 19 of planning permission IP/19/00369/FUL and the provision made for analysis, publication and dissemination of results and archive deposition.
18. No dwelling shall be first occupied until details of hard and soft landscaping, including within the approved communal and parking areas as well as the respective management of these areas, shall be submitted to and approved in writing by the Local Planning Authority. The approved hard landscaping shall be provided before first occupation of any dwelling within Blocks 1 or 2 and soft landscaping shall be carried out in accordance with the implementation and monitoring programme agreed with the Local Planning Authority and in accordance with the relevant recommendations of the appropriate British Standards. 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. Thereafter the parking and communal areas shall be managed in accordance with the agreed details.

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

1. To identify the approved drawings for the avoidance of doubt.
2. To ensure a high standard of development.
3. To protect the amenity of neighbouring residents.